GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

THE

UNREPEALED GENERAL ACTS

OF

THE INDIAN LEGISLATURE AND ACTS MADE BY THE GOVERNOR GENERAL UNDER THE PROVISIONS OF SECTION 67B OF THE GOVERNMENT OF INDIA ACT, WITH CHRONOLOGICAL TABLE AND INDEX.

From 1921 to 1923.

VOL. VII.

FIFTH EDITION.



CALCUTTA GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1929

Price Rs. 8 or 5s. 3d.

Government of India Publications are obtainable from the Government of India Central Publication Branch, 3, Government Place, West, Calcutta, and from the following Agents :—

EUROPE.

OFFICE OF THE HIGH COMMISSIONER FOR INDIA, 42, GROSVENOR GARDENS, LONDON, S.W. 1,
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PREFACE.

THIS, the seventh volume of the Unrepealed General Acts, has been compiled on the same lines as the preceding volumes, and contains the Unrepealed General Acts of the Indian Legislature and Acts made by the Governor General under the provisions of section 67B of the Government of India Act, from the year 1921 to 1923. All Acts are printed as modified up to 31st December, 1927.

An Index to the volume is as usual appended.

A. L. BANERJEE,
Assistant Secretary,
Legislative Department, Govt. of India.

SIMLA;
The 23rd July, 1929.

IST OF ABBREVIATIONS USED

Aj Code	For Ajmer Cod
Bal Code	„ Baluchistan Code
Ben Code . . .	„ Bengal Code
Bom Code .	„ Bombay Code
Bur Code . . .	„ Burma Code
B & O Code .	„ Bihar and Orissa Code
C P Code .	„ Central Provinces Code
Mad Code . .	„ Madras Code
Punj and N W F Code .	„ Punjab and North West Frontier Code
U P Code . .	„ United Provinces Code
Coll Stat .	„ Collection of Statutes relating to India
Gen R and O	„ General Statutory Rules and Orders
Ben R and O .	„ Bengal List of Local Statutory Rules and Orders
Bom R and O	„ *Bombay List of Local Rules* and Orders
C P R and O . .	„ Central Provinces List of Local Rules and Orders
Mad R and O	Madras List of Local Rules and Orders
Punj R and O .	„ Punjab List of Local Rules and Orders
U P R and O .	„ United Provinces List of Local Rules and Orders
Assam R and O	, Assam Local Statutory Rules and Orders
Bur R M	, Burma Rules Manual
Rep	„ Repealed
Am . . .	„ Amended
Sch	„ Schedule

PART I—CHRONOLOGICAL TABLE OF THE UNREPEALED ACTS OF THE INDIAN LEGISLATURE (FROM 1921 TO 1923)

(The figures in column 5 refer to the pages of this volume.)

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published
1921	I	The Indian Tea Cess (Amendment) Act, 1921		1
,,	II	The Legislative Assembly (Deputy President's Salary) Act, 1921		1
,,	III	The Code of Civil Procedure (Amendment) Act, 1921		2
,,	IX	The Enemy Missions Act, 1921	Am., Act 11 of 1923	2
,,	X	The Indian Marine (Amendment) Act, 1921		9
,,	XI	The Indian Works of Defence (Amendment) Act, 1921	Rep in pt., Act 12 of 1927	9
,,	XII	The Negotiable Instruments (Amendment) Act, 1921		10
,,	XIII	The Carriers (Amendment) Act, 1921	..	11
,,	XIV	The Indian Lac Cess Act, 1921		12
,,	XV	The Indian Post Office (Amendment) Act, 1921		14
,,	XVI	The Indian Penal Code (Amendment) Act, 1921	Rep in pt., Act 12 of 1927	15
,,	XVII	The Cattle trespass (Amendment) Act, 1921	Rep in pt., Act 12 of 1927	15
,,	XVIII	The Maintenance Orders Enforcement Act, 1921	..	16
,,	XIX	The Land Acquisition (Amendment) Act, 1921	..	21
1922	I	The Indian Electricity (Amendment) Act, 1922	..	22
,,	II	The Indian Factories (Amendment) Act, 1922	Am., Act 11 of 1923 Rep in pt., Act 12 of 1927	30
,,	III	The Benares Hindu University (Amendment) Act, 1922	..	39
,,	VI	The Indian Lunacy (Amendment) Act, 1922.	..	40

PART I.—UNREPEALED ACTS OF THE INDIAN LEGISLATURE—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published
1922	VII	*The Indian Emigration Act, 1922*	Rep in pt, Act 12 of 1927 Am, Act 27 of 1927	41
,,	VIII	The Delhi University Act, 1922		52
,,	IX	The Civil Procedure (Amendment) Act, 1922		79
,,	X	The Indian Limitation (Amendment) Act 1922		81
,,	XI	The Indian Income tax Act, 1922	Am Act 15 of 1923 Am, Act 27 of 1923 Am, Act 4 of 1924 Am, Act 7 of 1924 Am, Act 11 of 1924 Am, Act 5 of 1925 Am, Act 16 of 1925 Am, Act 24 of 1926 Am, Act 28 of 1927 Rep in pt, Act 12 of 1927 Supplemented, (temporarily) Indian Finance Act, 1927	82
,,	XII	The Indian Finance Act, 1922	Rep in pt, Act 10 of 1923 Rep in pt, Indian Finance Act, 1923 Rep in pt, Act 12 of 1927	121
,,	XIII	The Ranchi Mental Hospital Act, 1922		141
,,	XIV	The Press Law Repeal and Amendment Act, 1922		149
,,	XV	The Indian Ports (Amendment) Act, 1922.	..	157

PART I —UNREPEALED ACTS OF THE INDIAN LEGISLATURE—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published
1922	XVI	The Indian Extradition (Amendment) Act, 1922		158
,	XVII	The Indian Museum (Amendment) Act, 1922		159
,,	XVIII	The Negotiable Instruments (Amendment) Act, 1922		159
,	XIX	The Court fees (Amendment) Act, 1922		160
,	XX	The Parsi Marriage and Divorce (Amendment) Act, 1922		160
,	XXI	The Official Trustees and Administrator General s Acts Amendment Act, 1922		161
,	XXII	The Police (Incitement to Disaffection) Act, 1922		162
1923	III	The Cotton Transport Act, 1923	Am, Act 34 of 1925	165
,,	IV	The Indian Mines Act, 1923	Am, Act 37 of 1925 Rep in pt, Act 12 of 1927	168
,,	V	The Indian Boilers Act, 1923	Rep in pt, Act 12 of 1927	189
,,	VI	The Cantonments (House Accommodation) Act, 1923	Am, Act 10 of 1925 Rep in pt, Act 12 of 1927	202
,,	VII	The Indian Naval Armament Act, 1923		215
,,	VIII	The Workmen s Compensation Act, 1923	Am and Rep in pt, Act 7 of 1924 Am, Act 37 of 1925 Am, Act 29 of 1926	223
,,	IX	The Indian Factories (Amendment) Act, 1923		247

PART I—UNREPEALED ACTS OF THE INDIAN LEGISLATURE—*contd.*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published
1923	X	The Indian Paper Currency Act, 1923	Am, Act 36 of 1923 Am, Act 2 of 1925 Am, Act 4 of 1927 Am, Act 5 of 1927	248
,,	XI	The Repealing and Amending Act, 1923	Rep in pt, Act 12 of 1927	259
,,	XII	The Criminal Law Amendment Act, 1923	Rep in pt, Act 12 of 1927	264
,,	XIII	The Married Women's Property (Amendment) Act 1923		276
,,	XIV	The Indian Cotton Cess Act, 1923	Am, Act 1 of 1924 Am, Act 18 of 1925	277
,,	XV	The Indian Income tax (Amendment) Act, 1923		286
,,	XVI	The Government Savings Banks (Amendment) Act, 1923		287
,,	XVII	The Prisoners (Amendment) Act 1923		288
,,	XVIII	The Code of Criminal Procedure (Amendment) Act, 1923	Rep in pt, Act 12 of 1927	288
,,	XIX	The Indian Official Secrets Act, 1923	Rep in pt, Act 12 of 1927	354
,,	XX	The Indian Penal Code (Amendment) Act, 1923		365
,,	XXI	The Indian Merchant Shipping Act, 1923	Am, Act 1 of 1925 Am, Act 11 of 1925 Am, Act 14 of 1927 Rep in pt, Act 12 of 1927	366
,,	XXIII	The Legal Practitioners (Women) Act, 1923	..	503

PART I—UNREPEALED ACTS OF THE INDI N LEGISLATURE—*concld*

1	2	3	4	5
Year	No	Short titl	How repealed or otherwise affected by legislation	Where published
1923	XXVI	The Code of Civil Procedure (Amendment) Act, 1923		503
"	XXVII	The Indian Income tax (Further Amendment) Act, 1923	..	503
"	XXIX	The Code of Civil Procedure (Second Amendment) Act, 1923	Am, Act 37 of 1925	503
"	XXX	The Special Marriage (Amendment) Act, 1923	.	504
"	XXXI	The Indian Territorial and Auxiliary Forces (Amendment) Act, 1923		505
"	XXXII	The Indian Lunacy (Amendment) Act, 1923		505b
"	XXXIII	The Indian Army (Amendment) Act, 1923		505b
"	XXXIV	The Cutchi Memons (Amendment) Act, 1923	.	508
"	XXXV	The Code of Criminal Procedure (Further Amendment) Act, 1923		509
"	XXXVI	The Indian Paper Currency (Amendment) Act, 1923.	..	510
"	XXXVII	The Code of Criminal Procedure (Second Amendment) Act, 1923	Rep in pt, Act 12 of 1927	510
"	XXXVIII	The Land Acquisition (Amendment) Act, 1923	..	512
"	XXXIX	The Indian Ports (Amendment) Act, 1923	..	514
"	XL	The Indian Electricity (Amendment) Act, 1923	..	515
"	XLI	The Charitable and Religious Trusts (Amendment) Act, 1923.	..	516
"	XLII	The Mussalman Wakf Act, 1923	Am, in B & O, B & O Act I of 1926	516
"	XLIII	The Indian Stamp (Amendment) Act, 1923	..	523

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(The figures in column 4 refer to the pages of this volume.)

1	2	3	4
Year	Short title	How repealed or otherwise affected by legislation	Where published
1922	The Indian States (Protection against Disaffection) Act, 1922.	...	524
1923	The Indian Finance Act, 1923	Rep. in pt., Indian Finance Act, 1924 Rep. in pt., Act 12 of 1927	525

PART I.

THE UNREPEALED GENERAL ACTS

OF THE

INDIAN LEGISLATURE.

ACT No I OF 1921 [1]

[*2nd March, 1921*]

An Act to amend the Indian Tea Cess Act, 1903.

f 1903 WHEREAS it is expedient to amend the Indian Tea Cess Act, 1903, It is hereby enacted as follows —

1 This Act may be called the Indian Tea Cess (Amendment) Act, 1921 Short t

f 1903 2 In section 3 of the Indian Tea Cess Act 1903 for the words " one quarter of a pie per pound the words " eight annas per hundred pounds shall be substituted Amen of sect Act IX 1903

ACT No II OF 1921 [2]

[*27th March, 1921*]

An Act to determine the salary of the Deputy-President of the Legislative Assembly

WHEREAS it is provided by sub section (5) of section 63 C of the Government of India Act that the Deputy President of the Legislative Assembly shall receive such salary as may be determined by Act of the Indian Legislature It is hereby enacted as follows —

1 This Act may be called the Legislative Assembly (Deputy President s Salary) Act, 1921 Short ti

[1] For Statement of Objects and Reasons see Gazette of India 1921 Pt V, p 9
[2] For Statement of Objects and Reasons, see Gazette of India, 1921, Pt V p 7

Salary of Deputy-President 2. There shall be paid to the Deputy-President of the Legislative Assembly, in respect of any period during which he is engaged on work connected with the business of the said Assembly, a salary calculated at the rate of one thousand rupees *per mensem*

Decision in case of doubt 3. If any question arises whether during any period the Deputy-President was engaged on work connected with the business of the Legislative Assembly, the question shall be referred for decision to the President of the said Assembly, and his decision shall be final

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ACT No. III of 1921 [1]

[27th March, 1921.]

An Act further to amend the Code of Civil Procedure, 1908

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908, It is hereby enacted as follows — V of 1908.

Short title 1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1921

Amendment of section 55, Act V of 1908. 2 (*1*) In sub section (*3*) of section 55 of the Code of Civil Procedure, 1908, for the words "will be discharged" the words "may be discharged" shall be substituted V of 1908.

(*2*) In sub section (*4*) of the same section for the words "shall release" the words "may release" shall be substituted

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ACT No IX of 1921 [2]

[27th March, 1921.]

An Act to validate certain indentures transferring properties formerly held by certain Enemy Missions in Trustees, and for the incorporation of such Trustees and for other purposes

WHEREAS the Governor General in Council, in exercise of the powers conferred by sections 7 and 12 of the [3]Enemy Trading Act, 1916, vested X of 1916. the properties both moveable and immoveable in British India of the Leipzig Evangelical Lutheran Mission, Madras and Burma, the

---

1 For Statement of Objects and Reasons *see* Gazette of India, 1921 Pt V, p 2

2 For Statement of Objects and Reasons *see* Gazette of India 1921, Pt V, p 60

3 Repealed by the Repealing Act 1927 (12 of 1927)

Schleswig Holstein Evangelical Lutheran Mission, Madras, the Hermansburg Evangelical Lutheran Mission, Madras, the Basel Mission Madras, Bombay and Coorg, the Gossner Evangelical Lutheran Mission, United Provinces and Bihar and Orissa, the German Evangelical Lutheran Mission, Bihar and Orissa and Assam, and a religious association in Assam styled the Sisters of the Divine Saviour in certain Custodians of Enemy Property, and by order directed the said Custodians to transfer the properties thereby respectively vested in them to Boards of Trustees on certain trusts which the said Custodians accordingly purported to do by the several indentures, particulars of which are given in the Schedule hereto annexed, and

WHEREAS the properties comprised in the several indentures have by diverse mesne appointments become vested in the present Trustees of those indentures and

WHEREAS doubts have risen and may arise as to the validity of certain matters in connection with the above mentioned transfers, and

WHEREAS it is expedient to terminate such doubts and to constitute the several bodies of Trustees bodies corporate in order that the intention of the said transfers may be fully carried out,

It is hereby enacted as follows —

1 This Act may be called the Enemy Missions Act 1921 **Short title**

2 (1) Each body of persons whose names are set out in the fourth column of the Schedule and the predecessors in office of those persons shall be deemed to have been validly appointed the trustees of the indenture or indentures, as the case may be described in the Schedule opposite the names of the persons comprising that body and each such body of persons together with the successors in office of those persons, is hereby constituted a body corporate with perpetual succession and a common seal and may sue and be sued by the corporate name given to it in the fifth column of the Schedule **Incorporation of Trustees**

(2) For the purposes of the appointment of the successors of the persons named in the fourth column of the Schedule in their office as
1882. such trustees the provisions of the Indian Trusts Act 1882 shall be deemed to apply and appointments of any trustees which are required to be made by the National Missionary Council of India shall be sufficiently made if made by writing under the hand of the Chairman of that body

Validation of indentures etc

3 Notwithstanding anything contained in any enactment or rule of law to the contrary, the indentures described in the Schedule are hereby declared to have been validly made and the properties respectively transferred, or purporting to be transferred, thereby shall be deemed to have been duly transferred by the said indentures and all acts or things heretofore done under the said indentures are hereby validated and confirmed and every obligation imposed or purporting to be imposed on any person mentioned in any of the said indentures shall be binding in law on the person named therein whether such person is or is not a party to such indenture and the Trustees referred to in sub section (*1*) of section 2 shall have power in conformity with the indentures of which they are respectively trustees to transfer or otherwise deal with the properties comprised in those indentures

THE SCHEDULE.

(See section 2.)

Particulars of Indenture and present Trustees thereof

1	2	3	4	5
Date	Parties	Short effect	Name and description of the Trustees of each Indenture at the date of the passing of this Act	Corporate name of the Trustees for the time being of each Indenture from the date of the passing of this Act.
26th January 1920. Registered at Madras on 28th June 1920, being Serial No 2036 of 1920 in Registration Book 1 of the office of the Registrar of Madras, Chingleput	Daniel Chamier, Custodian of Enemy Property, Madras and Coorg (therein referred to as the Custodian) of the first part and Henry Reginald Pate, Arthur Davis, the Reverend William Meston, the Hon'ble Mr Muthiah David Devadoss Avergal and the Reverend Duncan Gordon MacNaughton Leith (therein referred to as the Trustees) of the second part	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in the Madras Presidency and Coorg formerly belonging to or held in Trust for the Basel Mission, the Leipzig Evangelical Lutheran Mission, the Schleswig Holstein Evangelical Lutheran Mission and the Hermannsburg Evangelical Lutheran Mission	John Anderson Thorne, I C S, Secretary to the Board of Revenue (Land Revenue), Madras Paul Appaswami, Judge of the Court of Small Causes, Madras Muthiah David Devadoss, Barrister at Law, Madras Duncan Gordon MacNaughton Leith, Secretary, German Missions' Committee of the National Missionary Council. Anthony Watson Brough of the London Mission, Erode, Madras.	The Mission Trust of Southern India.
31st March 1920 Registered at Madras on 5th August 1920, being Serial No 2197 of 1920 in Registration Book 1 of the office of the Registrar of Madras, Chingleput	Harold Charles Barnes Mitchell, Custodian of Enemy Property, Bombay (therein referred to as the Custodian) of the first part and John Anderson Thorne, Arthur Davies, the Reverend William Meston, the Hon'ble Mr. Muthiah David Devadoss and the Reverend Duncan Gordon MacNaughton Leith (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in the Bombay Presidency, formerly belonging to or held in Trust for the Basel Mission		

THE SCHEDULE—*contd*

Particulars of Indenture and present Trustees thereof

1	2	3	4	5
Date	Parties	Short effect	Name and description of the Trustees of each Indenture at the date of the passing of this Act	Corporate name of the Trustees for the time being of each Indenture from the date of the passing of this Act.
13th October 1919 Registered at Ghazipur on 23rd January 1920 being Serial No 2 of 1920 in Registration Book 1 of the office of the Registrar of Ghazipur	Shaikh Makbul Hosain Custodian of Enemy Property United Provinces (therein referred to as the Custodian) of the first part and the Hon ble Mr B Foley, W B Heycock the Reverend J Z Hodge Professor S C Mukerji, the Reverend G J Dann (therein referred to as the Trustees) of the second part	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in the United Provinces formerly belonging to or held in Trust for the Gossner Evangelical Lutheran Mission	Frank Frederick Lyall, Commissioner [illegible], Nagpur John Carlton	
13th October 1919 Registered at Ranchi on 4th December 1919, being Serial No 4390 of 1919 in Registration Book 1 of the office of the District Sub Registrar, Ranchi	Patrick William Murphy, Custodian of Enemy Property Bihar and Orissa (therein referred to as the Custodian) of the one part and Blanchard Foley William Bissil Heycock, the Reverend John Zimmerman Hodge, Professor S C Mukerji and the Reverend George James Dann (therein referred to as the Trustees) of the other part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in the Province of Bihar and Orissa formerly belonging to or held in Trust for the German Evangelical Lutheran Mission	Whitty, Deputy Commissioner of Ranchi Herbert Anderson, Secretary, National Missionary Council George James Dann, Missionary, Patna	The Mission Trust of Northern India
1st October 1919 Registered at Dibrugarh on 29th January 1920, being Serial No 42 of 1920 in Registration Book 1 of the office of the Sub Registrar, Dibrugarh	Stephen Nairne Mackenzie, Custodian of Enemy Property, Assam (therein referred to as the Custodian) of the first part and the Hon ble Mr Blanchard Foley, William Bissil Heycock, the Reverend John Zimmerman Hodge, Professor S C Mukerji and the Reverend G J Dann (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in Assam formerly belonging to or held in Trust for the German Evangelical Lutheran Mission	Satish Chandra Mukerji, Professor, Serampore College	

THE SCHEDULE—*contd*

Particulars of Indenture and present Trustees thereof

1	2	3	4	5
Date	Parties	Short effect	Name and description of the Trustees of each Indenture at the date of the passing of this Act	Corporate name of the Trustees for the time being of each Indenture from the date of the passing of this Act
27th November 1919 Registered at Rangoon on 13th February 1920 being Serial No 206 of 1920 in Registration Book I of the office of the Sub Registrar, Rangoon	John Cormack Mackenzie, Custodian of Enemy Property, Burma (therein referred to as the Custodian) of the first part and John Cormack Mackenzie Herbert Hoddy Mackney, Frank Dennison Phinney, the Reverend Clarence Eugene Olmstead, the Reverend Vickerman Nicholson Kemp (therein referred to as the Trustees) of the second part	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in Burma, formerly belonging to or held in Trust for the Leipzig Evangelical Lutheran Mission	John Cormack Mackenzie Collector of Rangoon Ernest Godfrey Pattle, District Magistrate of Rangoon Frank Dennison Phinney, Superintendent, American Baptist Mission Press, Rangoon D P Durai Raj, Saint Gabriels, S P G Mission Rangoon C H Riggs Principal, Methodist Boys' High School, Rangoon	The Burma Mission Trust

THE SCHEDULE—*concld*

Particulars of Indenture and present Trustees thereof

1	2	3	4	5
Date	Parties	Short effect	Name and description of the Trustees of each Indenture at the date of the passing of this Act	Corporate name of the Trustees for the time being of each Indenture from the date of the passing of this Act
30th April 1920 Registered at Dibrugarh on 23rd June 1920, being Serial No 453 of 1920 in Registration Book 1 of the office of the Sub Registrar, Dibrugarh	Gerald Courtenay Kerwood, Custodian of Enemy Property, Assam (therein referred to as the Custodian) of the first part and the Very Reverend Paul Lefebvre, John McSwiney, Robert Eustace Witham (therein referred to as the Trustees) of the second part	Being a transfer by the Custodian to the Trustees on the Trust therein mentioned of all property moveable or immoveable in Assam, formerly belonging to or held in Trust for the religious association or covenanted order called the Sisters of the Divine Saviour	The Very Reverend Paul Lefebvre, Vice Administrator of the Prefecture Apostolic of Assam John McSwiney, Director of Land Records and Agriculture, Assam Robert Eustace Witham, Manager,* [Budla Beta] Tea Estate, Lakhimpur, Assam	The Assam Roman Catholic Mission Trust

*These words were substituted for the word "Budla" by s. 2 and schedule I of the Repealing and Amending Act, 1923 (11 of 1923).

ACT No X OF 1921 [1]

[29th September, 1921]

An Act further to amend the Indian Marine Act, 1887.

WHEREAS it is expedient further to amend the Indian Marine Act,
887 1887, It is hereby enacted as follows —

1 This Act may be called the Indian Marine (Amendment) Act, 1921 Short title

2 In the proviso to sub section (1) of section 52 of the Indian Marine Act, 1887 (hereinafter referred to as the said Act), for the words ' by, or with the previous sanction of, the Governor General in Council,'' the words ' by the Governor General in Council or by the Director of Marine ' shall be substituted Amendment of section 52 (1) Act XIV of 1887

3. In sub section (2) of section 66 of the said Act, the words " with the previous sanction of the Governor General in Council " shall be omitted Amendment of section 66 (2) Act XIV of 1887

ACT No XI OF 1921 [2]

[29th September, 1921]

An Act further to amend the Indian Works of Defence Act, 1903

WHEREAS it is expedient further to amend the Indian Works of
903 Defence Act, 1903, It is hereby enacted as follows —

1. *This Act may be called the Indian Works of Defence (Amendment)* Act, 1921 *Short title*

903 2 In section 2 of the Indian Works of Defence Act, 1903 (hereinafter referred to as the said Act), for clauses (c) and (d), the following clauses shall be substituted, namely — Amendment of section 2, Act VII of 1903

' (c) the expression ' District ' means one of the Districts into which India is, for military purposes for the time being, divided, it includes a Brigade area which does not form part of any District, and any area which the Governor

[1] For Statement of Objects and Reasons see Gazette of India 1921 Pt V, p 122

[2] For Statement of Objects and Reasons see Gazette of India 1921 Pt V, p 123

General in Council may, by notification in the Gazette of India declare to be a District for all or any of the purposes of this Act,

(d) the expression "General Officer Commanding the District" means the officer for the time being in command of the forces in a District.

Amendment of section 7, Act VII of 1903.

3. In section 7 of the said Act,—

(a) in sub-clauses (i) and (iv) of clause (a), in the first proviso to sub-clause (i) of clause (b) and in sub-clause (ii) of clause (b) for the words "General Officer Commanding the Division" the words "General Officer Commanding the District" shall be substituted; and

(b) in the first proviso to sub-clause (iv) of clause (a) and in the second proviso to sub-clause (i) of clause (b) for the words "General Officer Commanding the Division, District or Brigade" the words "General Officer Commanding the District" shall be substituted.

4. [*Repeal.*] *Repealed by s. 2 and Sch. of the Repealing Act, 1927* (12 *of* 1927).

ACT No. XII of 1921.[1]

[29th September, 1921.]

An Act further to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient further to amend the Negotiable Instruments Act, 1881; It is hereby enacted as follows:— XXVI of 1881.

Short title.

1. This Act may be called the Negotiable Instruments (Amendment) Act, 1921.

Amendment of sections 63 and 83, Act XXVI of 1881.

2. In sections 63 and 83 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the said Act) for the word "twenty four," the word "forty-eight" shall be substituted. XXVI of 1881.

Amendment of section 75A, Act XXVI of 1881.

3. In section 75A of the said Act for the words "for payment" the words "for acceptance or payment" shall be substituted.

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[1] For Statement of Objects and Reasons *see* Gazette of India, 1921, Pt. V, p. 119.

ACT No. XIII of 1921[1]

[*29th September, 1921.*]

An Act further to amend the Carriers Act, 1865, in order to empower the Governor General in Council to make by notification additions to the Schedule to that Act, and to free a common carrier from liability under that Act for loss or damage, arising from the negligence of himself or of any of his agents or servants, in respect of any property which, being of the value of over one hundred rupees and of the description contained in the Schedule to that Act, has not been declared in accordance with the provisions of section 3.

65 WHEREAS it is expedient further to amend the Carriers Act, 1865, in manner hereinafter appearing. It is hereby enacted as follows:—

1. This Act may be called the Carriers (Amendment) Act, 1921. Short title.

2. In section 8 of the Carriers Act, 1865 (hereinafter called the said Act),— Amendment of section 8, Act III of 1865.

(1) the words "negligence or" shall be omitted, and

(2) after the words "agents or servants," the following words shall be added, namely:—

"and shall also be liable to the owner for loss or damage to any such property, other than property to which the provisions of section 3 apply and in respect of which the declaration required by that section has not been made, where such loss or damage has arisen from the negligence of the carrier or any of his agents or servants."

3. After section 10 of the said Act, the following section shall be added, namely:— Insertion of new section 11 in Act III of 1865.

"11. The Governor General in Council may, by notification in the Gazette of India, add to the list of articles contained in the Schedule to this Act, and the Schedule shall, on the issue of any such notification, be deemed to have been amended accordingly." Power to Governor General in Council to add to the Schedule.

[1] For Statement of Objects and Reasons *see* Gazette of India, 1921, Pt. V, p. 120.

ACT No. XIV OF 1921[1]

[*29th September, 1921.*]

An Act to provide for the levy of customs-duty on lac exported from British India.

WHEREAS it is expedient to provide for the creation of a Fund to be expended for the promotion of the improvement of methods of cultivation and manufacture of lac in India;

And whereas for this purpose it is expedient to levy customs-duty on lac produced in India and exported from British India;

It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Lac Cess Act, 1921.

(*2*) It extends to the whole of British India except Aden.

Definitions.

2. In this Act,—

(*a*) "The Lac Association" means the Indian Lac Association for Research registered as a society on the twelfth day of September, 1921, under the provisions of the Societies Registration Act, 1860; XXI of 1860.

(*b*) "Collector" means, in reference to lac exported by sea, a Customs-collector as defined in clause (*c*) of section 3 of the Sea Customs Act, 1878, and in reference to lac passing VIII of 1878. out of British India by land, the Collector of the district;

(*c*) "lac" includes any form of manufactured or unmanufactured lac other than refuse lac;

(*d*) "lac cess" means the customs-duty imposed by section 3 of this Act and by section 5 of the Indian Tariff Act, 1894. VIII of 1894.

Imposition of duty on exports of lac and refuse lac.

3. On and from the 1st January, 1922, a customs-duty shall be levied and collected on all lac and refuse lac produced in India and exported from any customs-port to any port beyond the limits of British India or to Aden at the rate of 4 annas per maund in the case of lac, and 2 annas per maund in the case of refuse lac, or at such lower rate as the Governor General in Council may, on the recommendation of the Lac Association, by notification in the Gazette of India, prescribe.

Application of proceeds of lac cess.

4. (*1*) At the close of each month, or as soon thereafter as may be convenient, the Collector shall pay the proceeds of the lac cess, after deducting the expenses of collection (if any), to the Lac Association.

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[1] For Statement of Objects and Reasons, see Gazette of India, 1921, Pt. V, p. 134.

(2) The said proceeds and any other monies received by the Lac Association in this behalf shall be applied by the Association towards meeting the cost of such measures as the Association may consider it advisable to take for the promotion of improved methods of cultivation and manufacture of lac by means of scientific research, experimental cultivation and the dissemination of knowledge, or by such other means, as it may be expedient to employ, for testing the value of the results obtained by such research

Keeping and auditing of accounts

5 (1) The Lac Association shall keep accounts of all monies received and expended under section 4

(2) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the Governor General in Council, and such auditors may disallow any item which has, in their opinion, been expended out of any money so received otherwise than as directed by or under this Act

(3) If any item is disallowed, an appeal shall lie to the Governor General in Council, whose decision shall be final

Power to make rules.

6. (1) The Governor General in Council may, after previous publication, make rules[1] to carry out the purposes of this Act

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for —

(a) the levy and payment of the lac cess, and

(b) the form of accounts to be kept and the publication of an abstract of such accounts with the reports of the auditors thereon

(3) All such rules shall be published in the Gazette of India

Time during which sections 2 to 6 are to remain in force

7. Sections 2 to 6 shall remain in force only until the 31st day of December, 1926[2]

Provided that the Governor General in Council may, on the recommendation of the Lac Association, and with the previous consent of the Indian Legislature declare, by notification in the Gazette of India, that the said sections shall continue in force for any further period specified in such notification

[1] For notification publishing such rules, *see* Gen R and O Vol V p 1

[2] This period has been extended to 31st December 1931, *see* Notification No 823-C, dated 20th February, 1926, Gazette of India, 1926, Part I, p 226

Provided also that, if at any time the Lac Association is dissolved, the said sections shall cease to be in force from the date of such dissolution

Disposal of surplus proceeds of lac cess

8. If any proceeds of the lac cess or any monies so received as aforesaid, remain unexpended when sections 2 to 6 cease to be in force, they shall, notwithstanding anything contained in any law for the time being in force vest in His Majesty

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ACT No XV of 1921[1]

[29th September, 1921]

An Act further to amend the Indian Post Office Act, 1898

WHEREAS it is expedient further to amend the Indian Post Office Act 1898 It is hereby enacted as follows — VI of 1898

Short title

1. This Act may be called the Indian Post Office (Amendment) Act, 1921

Amendment of section 24 Act VI of 1898

2 In section 24 of the Indian Post Office Act 1898 (hereinafter referred to as the said Act), the third proviso shall be omitted VI of 1898

Insertion of new section 24A in Act VI of 1898

3 After section 24 of the said Act the following section shall be inserted namely —

Power to deliver such articles to Customs authority

24A The Governor General in Council may by general or special order empower any officer of the Post Office specified in such order to deliver any postal article received from beyond the limits of British India and suspected to contain anything liable to duty, to such Customs authority as may be specified in the said order and such Customs authority shall deal with such article in accordance with the provisions of the Sea Customs Act, 1878 or of any other law for the time being in force VIII of 1878

Amendment of section 67, Act VI of 1898

4. In section 67 of the said Act, after the words " this Act," the words " or of any other Act for the time being in force " shall be inserted

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[1] For Statement of Objects and Reasons see Gazette of India, 1921, Pt V, p 121

ACT No XVI OF 1921[1]

[*29th September, 1921*]

An Act further to amend the Indian Penal Code

WHEREAS it is expedient further to amend the Indian Penal Code; It is hereby enacted as follows —

1. This Act may be called the Indian Penal Code (Amendment) Act, 1921 **Short title**

2 In sections 121 and 122 of the Indian Penal Code (hereinafter referred to as the said Code) for the words "and shall forfeit all his property," the words "and shall also be liable to fine" shall be substituted **Amendment of sections 121 and 122, Indian Penal Code**

3 In section 121A of the said Code after the words "ten years," the words "and shall also be liable to fine" shall be inserted **Amendment of section 121A, Indian Penal Code**

4 [*Repeal of sections 61 and 62, Indian Penal Code*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)*

ACT No XVII OF 1921[2]

[*30th September, 1921*]

An Act further to amend the Cattle-trespass Act, 1871

WHEREAS it is expedient further to amend the Cattle trespass Act,
71 1871 It is hereby enacted as follows —

1 (*1*) This Act may be called the Cattle trespass (Amendment) Act 1921 **Short title and commencement**

(*2*) This section shall come into force at once

(*3*) The rest of the Act shall come into force in any Province or part thereof on such date[3] as the Local Government may, by notification in the local official Gazette appoint

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[1] For Statement of Objects and Reasons *see* Gazette of India 1921 Pt V p 55 and for Report of Select Committee *see ibid*, 1921 Pt V, p 125

[2] For Statement of Objects and Reasons *see* Gazette of India 1921, Pt. V p 118.

[3] In Burma from 18th June 1923 *see* Burma Gazette 1923 Pt I, p 709

Substitution of new section for section 12, Act I of 1871

2. For section 12 of the Cattle trespass Act, 1871, the following section shall be substituted, namely — I of 1871.

Fines for cattle impounded

"12 For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine in accordance with the scale for the time being prescribed by the Local Government in this behalf by notification in the official Gazette Different scales may be prescribed for different local areas

All fines so levied shall be sent to the Magistrate of the District through such officer as the Local Government may direct

A list of the fines and of the rates of charge for feeding and watering cattle shall be posted in a conspicuous place on or near to every pound "

3 [*Repeal*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)*

ACT No XVIII OF 1921 [1]

[*5th October, 1921*]

An Act to facilitate the enforcement in British India of Maintenance Orders made in other parts of His Majesty's Dominions and Protectorates and *vice versa*.

WHEREAS it is expedient to facilitate the enforcement in British India of Maintenance Orders[2] made in other parts of His Majesty's Dominions and Protectorates and *vice versa*, It is hereby enacted as follows —

Short title and extent

1. (*1*) This Act may be called the Maintenance Orders Enforcement Act, 1921

(*2*) It extends to the whole of British India, including the Sonthal Parganas and British Baluchistan

Definitions

2 In this Act, unless there is anything repugnant in the subject or context,—

"Court of summary jurisdiction" means the Court of a Chief Presidency Magistrate or of a District Magistrate

1 For Statement of Objects and Reasons see Gazette of India, 1921 Pt V, p 5; and for Report of Select Committee, see ibid, 1921, Pt V, p 127

2 For extension by the Colony of Seychelles and New South Wales of their respective Maintenance Orders legislation to British India, see Gazette of India 1924, Pt I, pp 316 and 1071

"dependant" means such person as a person against whom a maintenance order is made is liable to maintain according to the law in force in the part of His Majesty's Dominions in which the maintenance order is made;

"maintenance order" means a decree or order, other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made;

"prescribed" means prescribed by rules made under this Act;

"proper authority" means the authority appointed by or under the laws of a reciprocating territory to receive and transmit documents to which this Act applies; and

"reciprocating territory" means any part of His Majesty's Dominions outside British India in respect of which this Act for the time being applies.

Reciprocal arrangements.

3. (1) If the Governor General in Council is satisfied that provisions have been made by the Legislature of any part of His Majesty's Dominions for the enforcement within that part of maintenance orders made by Courts in British India, the Governor General in Council may, by notification in the Gazette of India, declare[1] that this Act applies in respect of that part of His Majesty's Dominions, and thereupon it shall apply accordingly.

(2) The Governor General in Council may, by like notification, declare[2] that this Act applies in respect of any British protectorate or in respect of any State in India, and where such a declaration has been made this Act shall apply as if such protectorate or State were a reciprocating territory.

Registration in British India of maintenance orders made in other parts of His Majesty's Dominions.

4. (1) Where a maintenance order has, whether before or after the passing of this Act, been made against any person by any Court in any reciprocating territory and a certified copy of the order has been transmitted by the proper authority of that territory to the Governor General, the Governor General in Council shall send a copy of the order to the prescribed officer of a Court in British India for registration; and on receipt thereof the order shall be registered in the prescribed manner.

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[1] For such declarations in respect of parts of His Majesty's dominions outside British India, see Gen. R. & O., Vol. V, pp. 2, 3.

[2] For notifications making such declarations in respect of certain protectorates, see Gen. R. & O., Vol. V, p. 4.

(2) The Court in which an order is to be so registered as aforesaid shall, if the Court by which the order was made was, in the opinion of the Governor General in Council, a Court of superior jurisdiction, be a High Court, and, if the Court was not, in his opinion, a Court of superior jurisdiction, be a Court of summary jurisdiction

Transmission of maintenance orders made in British India

5 Where a Court in British India has, whether before or after the commencement of this Act, made a maintenance order against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory, the Court shall send to the Governor General in Council, for transmission to the proper authority of that territory, a certified copy of the order

Power of Summary Courts to make provisional maintenance orders against persons resident in His Majesty's Dominions outside British India.

6 (1) Where application is made to a Court of summary jurisdiction in British India for a maintenance order against any person, and it is proved that that person is resident in a reciprocating territory, the Court may, in the absence of that person if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person had wilfully neglected to attend the Court but in such case the order shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory

(2) The evidence of every witness who is examined on any such application shall be reduced to writing and such deposition shall be read over to and signed by, him

(3) Where such an order is made, the Court shall send to the Governor General in Council for transmission to the proper authority of the reciprocating territory in which the person against whom the order is made is alleged to reside the depositions so taken and a certified copy of the order together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing and such information as the Court possesses for facilitating the identification of that person and ascertaining his whereabouts

(4) Where any such provisional order has come before a Court in a reciprocating territory for confirmation, and the order has by that Court been remitted to the Court of summary jurisdiction which made the order for the purpose of taking further evidence that Court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application

(5) If it appears to the Court hearing such evidence that the order ought not to have been made, the Court may rescind the order, but in any other case the depositions shall be sent to the Governor General in Council and dealt with in like manner as the original depositions

(6) The confirmation of an order made under this section shall not affect any power of a Court of summary jurisdiction to vary or rescind that order

Provided that, on the making of a varying or rescinding order, the Court shall send a certified copy thereof to the Governor General in Council for transmission to the proper authority of the reciprocating territory in which the original order was confirmed, or to which it was sent for confirmation and that, in the case of an order varying the original order the order shall not have any effect unless and until confirmed in like manner as the original order

Power of Court of summary jurisdiction to confirm maintenance order made out of British India

7. (1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in British India and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Governor General and it appears to the Governor General in Council that the person against whom the order has been made is resident in British India the Governor General in Council may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person

(2) A summons issued under sub section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction

(3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto but no other defence, and the certificate from the Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken

(4) If at the hearing the person served with the summons does not appear or on appearing fails to satisfy the Court that the order ought not to be confirmed, the Court may notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in British India confirm the order either without modification or with such modifications as to the Court after hearing the evidence may seem just

Provided that no sum shall be awarded as maintenance under this section or shall be recoverable as such, at a rate exceeding that proposed in the provisional order

(5) If the person to whom the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the Court which made the provisional order for the taking of any further evidence the Court may for that purpose send a certified copy of the record to the Governor General in Council for transmission to that Court through the proper authority of the reciprocating territory and may adjourn the proceedings

(6) Where a provisional order has been confirmed under this section it may be varied or rescinded in like manner as if it had originally been made by the confirming Court and where on an application for rescission or variation the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence the Court may for that purpose send a certified copy of the record to the Governor General in Council for transmission to that Court through the proper authority of the reciprocating territory and may adjourn the proceedings

Enforcement of maintenance orders

8 (1) Subject to the provisions of this Act, where an order has been registered under this Act in a High Court, the order shall, from the date of such registration be of the same force and effect, and all proceedings may be taken thereon as if it had been an order originally obtained in the High Court in the exercise of its civil jurisdiction or in such Civil Court subordinate to that High Court as may be named by the High Court in this behalf and that Court shall have power to enforce the order accordingly

(2) A Court of summary jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act and the officers of such Court, shall have such powers and perform such duties for the purpose of enforcing the order, as may be prescribed

9 A Court in registering or confirming an order for maintenance in accordance with the provisions of this Act shall direct that the charges for the transmission to the Court from which the order has been received or in which the provisional order has been made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as such other costs and charges as may be awarded or levied by the Court — Payment of charges for transmission of sums awarded as maintenance and other costs and charges

10 For the purposes of this Act, any document purporting to be signed by a judge or officer of a Court outside British India shall until the contrary is proved, be deemed to have been so signed without proof of the signature of judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document — Proof of documents signed by officers of Court

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Act, be received in evidence in proceedings before Courts of summary jurisdiction under this Act — Depositions to be evidence

12 The Governor General in Council may make rules[1] for the purpose of carrying into effect the purposes of this Act, and in particular may make rules for the levy of the costs or charges for anything done under this Act and for all matters which are directed or permitted to be prescribed — Rule-making power

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ACT No XIX OF 1921 [2]

[5th October, 1921]

An Act further to amend the Land Acquisition Act, 1894

WHEREAS it is expedient further to amend the Land Acquisition Act, 1894 It is hereby enacted as follows — (1894.)

1 This Act may be called the Land Acquisition (Amendment) Act, 1921 — Short title.

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[1] For such rules see Gen R and O Vol V p. 4

[2] For Statement of Objects and Reasons see Gazette of India 1921, Pt. V, p 62

Amendment of section 26, Act I of 1894.

2. Section 26 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act), shall be re-numbered 26 (1), and to the said section the following sub section shall be added, namely — I of 1894.

"(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (2), and section 2, clause (9), respectively, of the Code of Civil Procedure, 1908" V of 1908.

Substitution of new section for section 54, Act I of 1894

3 For section 54 of the said Act, the following section shall be substituted namely —

' 54 Subject to the provisions of the Code of Civil Procedure, 1908, applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to His Majesty in Council subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof V of 1908.

ACT No I of 1922[1]

[*25th January 1922*]

An Act further to amend the Indian Electricity Act, 1910

WHEREAS it is expedient further to amend the Indian Electricity Act, 1910 It is hereby enacted as follows — IX of 191

Short title

1. This Act may be called the Indian Electricity (Amendment) Act, 1922

Amendment of section 2, Act IX of 1910

2 For clause (1) of section 2 of the Indian Electricity Act, 1910 (hereinafter referred to as the said Act), the following shall be substituted, namely — IX of 1910

" (l) ' service line ' means any electric supply line through which energy is, or is intended to be, supplied by a licensee—

(i) to a single consumer either from a distributing main or immediately from the licensee's premises, or

1 For Statement of Objects and Reasons, see Gazette of India 1921, Pt. V, p 99; and for Report of Joint Committee, see ibid 1921, Pt V, p 140

(ii) from a distributing main to a group of consumers on the same premises or on adjoining premises supplied from the same point of the distributing main.'

3. In sub-clause (ii) of clause (*a*) of sub-section (*2*) of section 3 of the said Act, for the words "General Officer Commanding the Division," the words 'Director of Military Works shall be substituted — Amendment of section 3, Act IX of 1910.

4. In section 17 of the said Act,— Amendment of section 17, Act IX of 1910

(*a*) in sub section (*1*), for the words "not being service lines immediately attached or intended to be immediately attached to a distributing main," the words "not being either service lines" shall be substituted, and

(*b*) in sub-section (*2*), after the word "laying," the words "or placing" shall be inserted, and the words "underground" and "immediately attached or intended to be immediately attached to a distributing main" shall be omitted

5. In section 18 of the said Act,— Amendment of section 18, Act IX of 1910

(*a*) for sub section (*3*), the following sub section shall be substituted, namely —

(*3*) Where any tree standing or lying near an aerial line, or where any structure or other object which has been placed or has fallen near an aerial line subsequently to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of energy or the accessibility of any works, a Magistrate of the first class or, in a Presidency town or Rangoon, the Commissioner of Police, may, on the application of the licensee, cause the free structure or object to be removed or otherwise dealt with as he thinks fit", and

(*b*) after sub section (*4*), the following *Explanation* shall be added, namely —

"*Explanation* —For the purposes of this section, the expression 'tree shall be deemed to include any shrub, hedge jungle growth or other plant"

6 After section 19 of the said Act the following section shall be inserted under the heading "*Supply*" namely — Insertion of new section 19A in Act IX of 1910

"19A For the purposes of this Act, the point at which the supply of energy by a licensee to a consumer shall be deemed to commence shall be determined in such manner as may be prescribed" — Point where supply is delivered

Amendment of section 20, Act IX of 1910

7. In section 20 of the said Act,—

(a) in clause (c) of sub-section (1), after the word "supply-lines," the word "meters," shall be inserted; and

(b) after sub-section (2), the following sub-section shall be added, namely:—

"(3) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises in pursuance of the provisions of sub-section (1) or sub-section (2), or, when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by those sub-sections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer."

Amendment of section 21, Act IX of 1910

8. In section 21 of the said Act, sub-section (2) shall be re-numbered (4), and after sub-section (1), the following sub-sections shall be inserted, namely:—

"(2) Subject to the provisions of sub-section (1), a licensee may, with the previous sanction of the Local Government, given after consulting the local authority, where the licensee is not the local authority, make conditions not inconsistent with this Act or with his licence or with any rules made under this Act, to regulate his relations with persons who are or intend to become consumers, and may with the like sanction given after the like consultation add to or alter or amend any such conditions; and any conditions made by a licensee without such sanction shall be null and void:

Provided that any such conditions made before the 23rd day of January, 1922, shall, if sanctioned by the Local Government on application made by the licensee before such date as the Local Government may, by general or special order, fix in this behalf, be deemed to have been made in accordance with the provisions of this sub-section.

(3) The Local Government may, after the like consultation, cancel any condition or part of a condition previously sanctioned under sub-section (2) after giving to the licensee not less than one month's notice in writing of its intention so to do."

Amendment of section 23, Act IX of 1910.

9. To section 23 of the said Act, the following sub-sections shall be added, namely:—

"(3) In the absence of an agreement to the contrary, a licensee may charge for energy supplied by him to any consumer—

(a) by the actual amount of energy so supplied, or

(b) by the electrical quantity contained in the supply, or

(c) by such other method as may be approved by the Local Government

(4) Any charges made by a licensee under clause (c) of sub section (3) may be based upon, and vary in accordance with, any one or more of the following considerations, namely —

(a) the consumer's load factor, or

(b) the power factor of his load, or

(c) his total consumption of energy during any stated period, or

(d) the hours at which the supply of energy is required"

10 In section 24 of the said Act,— Amendment of section 24, Act IX of 1910

(a) the first paragraph ending with the words "but no longer" shall be re numbered as sub section (1), and, in that sub section as re numbered for the words "other sum" where they first occur, the words "sum, other than a charge for energy" shall be substituted, and

(b) the proviso shall be re numbered sub section (2), and, in that sub section as re numbered, the words "provided that" shall be omitted, and to the sub section the following proviso shall be added, namely —

"Provided that the prohibition contained in this sub section shall not apply in any case in which the licensee has made a request in writing to the consumer for a deposit with the Electric Inspector of the amount of the licensee's charges or other sums in dispute or for the deposit of the licensee's further charges for energy as they accrue and the consumer has failed to comply with such request"

11 In sub section (6) of section 26 of the said Act, the words "on the basis of the previous supply" shall be omitted and to the sub section the following proviso shall be added namely — Amendment of section 26, Act IX of 1910

"Provided that before either a licensee or a consumer applies to the Electric Inspector under this sub section he shall give to the other party not less than seven days' notice of his intention so to do"

12 To the third proviso to section 27 of the said Act the following shall be added namely — Amendment of section 27 Act IX of 1910

"unless the Local Government after such inquiry as it thinks fit, considers that such consent has been unreasonably withheld"

13 In sub section (1) of section 28 of the said Act the first proviso and the word "also" in the second proviso shall be omitted Amendment of section 28, Act IX of 1910

Amendment of section 30, Act IX of 1910.

14. In clause (*b*) of sub-section (*1*) of section 30 of the said Act,—

(*a*) in sub-clause (ii) for the figures "1881" the figures "1911" shall be substituted; and

(*b*) after sub-clause (iii), the following shall be inserted, namely:—

"or

(iv) to which the Local Government, by general or special order, declares the provisions of this sub-section to apply."

Amendment of section 33, Act IX of 1910.

15. For sub-section (*1*) of section 33 of the said Act, the following sub-section shall be substituted, namely:—

"(*1*) If any accident occurs in connection with the generation, transmission, supply or use of energy in, or in connection with, any part of the electric supply-lines or other works of any person, and the accident results or is likely to have resulted in loss of life or personal injury, such person shall give notice of the occurrence, and of any loss of life or personal injury actually occasioned by the accident, in such form and within such time and to such authorities as the Local Government may, by general or special order, direct"

Amendment of section 35, Act IX of 1910.

16. In section 35 of the said Act, sub-section (*3*) shall be omitted, and sub-section (*4*) shall be re-numbered (*3*), and in sub-section (*3*) as re-numbered, clauses (*a*), (*b*) and (*c*) shall be re-numbered (*b*), (*c*) and (*d*), respectively, and the following shall be inserted as clause (*a*), namely:—

"(*a*) determine the number of members of which any such Board shall be constituted and the manner in which such members shall be appointed"

Amendment of section 36, Act IX of 1910

17. To sub section (*3*) of section 36 of the said Act, the words "or, if the Governor General in Council or the Local Government, as the case may be, by general or special order, so directs, to an Advisory Board" shall be added

Amendment of section 37, Act IX of 1910

18. In section 37 of the said Act,—

(*a*) in clause (*j*) of sub-section (*2*), the word "and" at the end shall be omitted, and after clause (*k*) of the same sub-section, the following shall be inserted, namely:—

"and

(*l*) provide for any matter which is to be or may be prescribed"; and

(b) sub-section (3) shall be re-numbered (4), and the following sub-section shall be inserted after sub-section (2), namely —

"(3) Any rules made in pursuance of clause (f) or clause (h) of sub-section (2) shall be binding on the Crown "

19. In section 44 of the said Act,— **Amendment of section 44, Act IX of 1910**

(a) for the words "three hundred" and "thirty," the words "five hundred" and "fifty," respectively, shall be substituted,

(b) for the words "the existence of artificial means," the words "if it is proved that any artificial means exist" shall be substituted,

(c) for the words "shall, where," the words "and that" shall be substituted, and

(d) for the words "be *primâ facie* evidence," the words "it shall be presumed, until the contrary is proved," shall be substituted

20. In section 51 of the said Act, for the words "Governor General in Council" in both places where they occur, the words "Local Government" shall be substituted **Amendment of section 51, Act IX of 1910**

21. In clause (a) of sub-section (1) of section 53 of the said Act, for the words 'the Secretary in the Public Works Department," the words "such officer as the Governor General in Council or the Local Government, *as the case may be may designate in this behalf* ' shall be substituted **Amendment of section 53, Act IX of 1910**

22. In section 55 of the said Act, after the word and figures "section 18,' the words figures and brackets "or section 34, sub-section (2)" shall be inserted **Amendment of section 55, Act IX of 1910**

23. In sub clause (1) of clause VI of the Schedule to the said Act,— **Amendment of clause VI of the Schedule to Act IX of 1910**

(a) after the word "where ' where it first occurs, the words "after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced," shall be inserted,

(b) for the words "one hundred yards from any distributing main " the words "the area of supply" shall be substituted

(c) after the words "within one month from the making of the requisition," the words "or within such longer period as the Electric Inspector may allow" shall be inserted

(*d*) to clause (*d*) of the second proviso, the following words shall be added, namely —

but the licensee shall re connect the supply with all reasonable peed on the cessation of the act or default or both, as the case may be, which entitled him to discontinue it ', and

e) in the fourth proviso—

(i) for the words in the event of any requisition being made for a supply of energy from any distributing main of which the words if any requisition is made for a supply of energy and shall be substituted and

ii for the word it in clause (*a*), the words the nearest distributing main shall be substituted

Substitution of new clause VII of the Schedule to Act IX of 1910

24 For clause VII of the Schedule to the said Act, the following shall be substituted, namely —

Further provisions as to laying of service lines

VII The licensee shall before commencing to lay down or place a service line in any street in which a distributing main has not already been laid down or placed serve upon the local authority (if any) and upon the owner or occupier of all premises abutting on so much of the street as lies between the points of origin and termination of the service line so to be laid down or placed twenty one days' notice stating that the licensee intends to lay down or place a service line, and intimating that if within the said period the local authority or any five or more of such owners or occupiers require, in accordance with the provisions of the licence that a supply shall be given for any public lamps or to their premises as the case may be the necessary distributing main will be laid down or placed by the licensee at the same time as the service line

Amendment of clause VIII of Schedule to Act IX of 1910

25 In sub clause (*1*) of clause VIII of the Schedule to the said Act —

(*a*) after the word where the words after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced shall be inserted and

(*b*) for the words distance of one hundred yards from any distributing main the words area of supply" shall be substituted

Amendment of clause X of Schedule to Act IX of 1910

26 In clause X of the Schedule to the said Act —

(*a*) the first part of the clause up to and including sub-clause (*c*) shall be omitted,

(*b*) the first proviso shall be re numbered sub clause (*1*), and in that sub clause as re-numbered—

(i) the words "Provided, first, that" shall be omitted, and

(ii) for the words "so approved by the Local Government," the words, figures and brackets "approved by the Local Government in accordance with section 23, sub-section (*3*),
910 clause (*c*), of the Indian Electricity Act, 1910" shall be substituted,

(*c*) the second proviso shall be re numbered sub-clause (*2*), and from that sub clause as re numbered the words "Provided, secondly, that" shall be omitted, and

(*d*) the third proviso shall be re numbered sub clause (*3*), and from that sub clause as re numbered the words "Provided, thirdly, that," shall be omitted

Amendment of clause XI of Schedule to Act IX of 1910

27. In the first proviso to clause XI of the Schedule to the said Act,—

(*a*) the words "or is satisfied" shall be omitted, and

(*b*) for the words "may, after such inquiry (if any) as it thinks fit, make an order accordingly," the following shall be substituted, namely —

"shall refer the matter to an Advisory Board and, if the Board recommends any alteration, may make an order in accordance with such recommendation"

Insertion of new clause XIA in Schedule to Act IX of 1910

28. After clause XI of the Schedule to the said Act, the following clause shall be inserted, namely —

Minimum charges

"XIA A licensee may charge a consumer a minimum charge for energy of such amount and determined in such manner as may be specified by his licence, and such minimum charge shall be payable notwithstanding that no energy has been used by the consumer during the period for which such minimum charge is made"

Amendment of clause XVI of Schedule to Act IX of 1910

29. In clause XVI of the Schedule to the said Act,—

(*a*) in sub-clause (*1*) for the words "and the approximate height above or depth," the words "and, in the case of underground works, the approximate depth" shall be substituted,

(*b*) for sub-clause (*2*) the following shall be substituted, namely —

"(*2*) Every such plan shall be drawn to such scale as the Local Government may require provided that no scale shall be required unless

maps of the locality on that scale are for the time being available to the public"; and

(c) for sub-clause (3), the following shall be substituted, namely:—

"(3) Every such section shall be drawn to horizontal and vertical scales which shall be such as the Local Government may require."

ACT No. II OF 1922.[1]

[25th January, 1922.]

An Act further to amend the Indian Factories Act, 1911.

WHEREAS it is expedient further to amend the Indian Factories Act, 1911; It is hereby enacted as follows:— XII of 1911.

Short title, extent and commencement. 1. (1) This Act may be called the Indian Factories (Amendment) Act, 1922.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas

(3) It shall come into force on the first day of July, 1922.

Amendment of section 2, Act XII of 1911. 2. In section 2 of the Indian Factories Act, 1911 (hereinafter referred to as the said Act),— XII of 1911.

(a) in clause (1), for the word "fourteen" the word "fifteen" shall be substituted;

(b) for clause (3) the following clause shall be substituted, namely:—

"(3) 'factory' means—

(a) any premises wherein, or within the precincts of which, on any one day in the year not less than twenty persons are simultaneously employed and steam, water or other mechanical power or electrical power is used in aid of any process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale any article or part of an article; or

(b) any premises wherein, or within the precincts of which, on any one day in the year not less than ten persons are simultaneously employed and any such process is carried on,

[1] For Statement of Objects and Reasons, *see Gazette of India*, 1921, Pt. V, p. 90; and for Report of Joint Committee, *see ibid*, 1921, Pt. V, p. 167.

whether any such power is used in aid thereof or not which have been declared by the Local Government, by notification in the local official Gazette, to be a factory,

A declaration under clause (*b*) may be made in respect of any class of premises, or in respect of any particular premises',

(*c*) for clauses (*8*) and (*9*), the following clause shall be substituted, namely —

'(*8*) week means the period between midnight on Saturday night and midnight on the succeeding Saturday night"

3 For section 3 of the said Act, the following section shall be substituted, namely — Substitution of new section for section 3 Act XII of 1911

3 Nothing in this Act shall apply to any mine subject to the operation of the [1]Indian Mines Act, 1901 Application of Act

4. In section 7 of the said Act for sub section (*2*) the following sub-sections shall be substituted namely — Amendment of section 7, Act XII of 1911

'(*2*) A certifying surgeon may revoke any certificate granted to a child under sub section (*1*) if, in his opinion, the child is no longer fit for employment in a factory

(*3*) Where a certifying surgeon refuses to certify that a person is fit for employment in a factory or revokes a certificate granted to a child in this behalf he shall, if required by such person or child or by the parent or guardian of such person or child, or by the manager of the factory in which such person or child desires to be employed state in writing his reasons for such a refusal or revocation"

5 In section 8 of the said Act,— Amendment of section 8, Act XII of 1911

(*a*) for the words any person practising medicine or surgery," the words any registered practitioner shall be substituted

(*b*) in the proviso for the words after the first date" to the end of the section the words for a period of more than three months' shall be substituted

(*c*) after the proviso the following *Explanation* shall be added, namely —

'*Explanation* —In this section the expression 'registered practitioner' means any person registered under the Medical Act 1858 or any Act amending the same or under any Act of any Legislature in British 21 & 22 Vict c 90

[1] *See* now the Indian Mines Act 1923 (4 of 1923)

India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last mentioned Act is in force, any person declared by the Local Government by notification in the local official Gazette, to be a registered practitioner for the purposes of this section."

Insertion of new section 8A in Act XII of 1911

6. After section 8 in Chapter II of the said Act, the following section shall be inserted, namely:—

Compulsory medical examination

"8A. Where an Inspector is of opinion that a child employed in a factory is no longer fit for employment, he may serve on the manager of the factory a notice requiring that such child shall cease to be employed until he has been re-examined by a certifying surgeon or by a registered practitioner authorised by a certifying surgeon in this behalf."

Amendment of section 9, Act XII of 1911

7. To section 9 of the said Act, the following clause shall be added, namely:—

"(*d*) the atmosphere shall not be rendered so humid by artificial means as to be injurious to the health of the persons employed therein."

Amendment of section 18, Act XII of 1911

8. In clause (c) of sub-section (*1*) of section 18 of the said Act, after the word "machinery," the words "and electrical fittings including live wires and switches" shall be inserted.

Insertion of new section 18A in Act XII of 1911

9. After section 18 of the said Act, the following section shall be inserted, namely:—

"18A. (*1*) If an Inspector is of opinion—

Repairs to buildings or machinery

(*a*) that any factory or part thereof is in such a condition as to be dangerous to human life or safety, or

(*b*) that any part of the ways, works, machinery or plant used in a factory is in such a condition that it cannot be used without danger to human life, or safety,

he may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for removing the danger, and requiring him to carry them out before such date as may be specified therein.

(*2*) If, in the opinion of the Inspector, the use of any part of the ways, works, machinery or plant in a factory involves imminent danger to human life, he may serve on the manager of the factory an order in writing prohibiting the use thereof until it is duly repaired or altered."

10. After section 19 of the said Act, the following sections shall be inserted, namely — Insertion of new sections 19A and 19B in Act XII *of 1911*

'19A Where, in the opinion of the Inspector, the presence in any factory or any part thereof of children, who, by reason of their age, cannot, under the provisions of this Act, be lawfully employed therein, involves danger to, or injury to the health of, such children, he may serve on the manager of such factory an order in writing prohibiting the admission of such children to the factory or part thereof Power to prohibit presence of children in factories

19B No person under the age of eighteen years and no woman shall be employed in any factory in any of the operations specified in Part I of the Schedule, or, save in accordance with the regulations contained in Part II of the Schedule in any operation involving the use of lead compounds " Prohibition *of employ*ment of women and persons under eighteen years in certain processes

11. In the proviso to section 20 of the said Act, after the word "roof," the words ' or to such height as the Inspector may, in any particular case, specify" shall be inserted Amendment of section 20, Act XII of 1911

12. For section 21 of the said Act, the following section shall be substituted, namely — Substitution of new section for section 21, Act XII of 1911. Rest periods in factories.

21 (*1*) In every factory there shall be fixed,—

(*a*) for each person employed on each working day—

(i) at intervals not exceeding six hours, periods of rest of not less than one hour, or

(ii) at the request of the employees concerned, periods of rest of not less than half an hour each so arranged that, for each period of six hours' work done, there shall be periods of rest of not less than one hour's duration in all, and that no person shall work for more than five hours continuously, and

(*b*) for each child working more than five and a half hours in any day, a period of rest of not less than half an hour

(2) The period of rest under clause (*b*) shall be so fixed that no such child shall be required to work continuously for more than four hours "

13 To clause (*b*) of sub section (*1*) of section 22 of the said Act, the following proviso shall be added, namely — Amendment of section 22, Act XII of 1911

"Provided that no such substitution shall be made as will result in any person working for more than ten consecutive days without a holiday for a whole day "

Amendment of section 23, Act XII of 1911

14. (*1*) In clause (*a*) of section 23 of the said Act, for the word "nine" the word "twelve" shall be substituted

(*2*) In clause (*c*) of section 23 of the said Act, for the word "seven" the word "six" shall be substituted

[1]* *

Amendment of section 25, Act XII of 1911

15. *In section 25 of the said Act, after the word "child" the words* "or, save in such circumstances as may be prescribed, any other person" shall be inserted

Amendment of section 26, Act XII of 1911

16 In section 26 of the said Act, for the words "woman or child" and the words "woman and child" the word "person" shall be substituted

Substitution of new sections for section 27, Act XII of 1911

17. For section 27 of the said Act, the following sections shall be substituted, namely —

Limitation of working hours per week

27 No person shall be employed in a factory for more than sixty hours in any one week

Limitation of working hours per day

28 No person shall be employed in any factory for more than eleven hours in any one day"

Substitution of new Chapter for Chapter V, Act XII of 1911

18 For Chapter V of the said Act, the following Chapter shall be substituted, namely —

"CHAPTER V

EXCEPTIONS

Exceptions for persons holding positions of supervision etc

29 Nothing in any of the following sections namely, 21, 22, 24, 26, 27 and 28, shall apply to persons who may, by rules made by the Local Government under this Act, be defined to be persons holding positions of supervision or management or to persons employed in a confidential capacity

Exemptions

30 (*1*) Where it is proved to the satisfaction of the Local Government—

(*a*) that any class of work in a factory is in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory, or

(*b*) that the work of any class of workers is essentially intermittent, or

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1 Sub section (5) was repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)

(*c*) that there is in any class of factories any work which necessitates continuous production for technical reasons, or

(*d*) that any class of factories supplies the public with articles of prime necessity which must be made or supplied every day, or

(*e*) that in any class of factories the work performed, by the exigencies of the trade or by its nature, cannot be carried on except at stated seasons or at times dependent on the irregular action of natural forces,

the Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt on such conditions, if any, as it may impose—

in case (*a*) such class of work from all or any of the provisions of sections 27 and 28,

in case (*b*) work of the nature described from all or any of the provisions of sections 22, 27 and 28,

in case (*c*) work of the nature described from the provisions of sections 21 and 22,

in cases (*d*) and (*e*) such class of factories from the provisions of section 22

(*2*) The Local Government may, by general or special order, exempt for such period as may be specified in the order and on such conditions, if any, as it may impose, any factory from all or any of the provisions of sections 21, 22, 27 and 28, on the ground that such exemption is necessary in order to enable such factory to deal with an exceptional press of work

(*3*) In such circumstances and subject to such conditions as may be prescribed, nothing in section 21, section 22, section 27 or section 28 shall apply to work on urgent repairs

Payment for overtime

31 Where, under the provisions of sub section (*1*) of section 30 any factory has been exempted from the provisions of section 27, every person employed in such factory for more than sixty hours in any one week shall be paid in respect of the overtime at a rate which shall be at least one and a quarter times the rate at which he is normally paid

Special exemptions for indigo, tea and coffee factories

32 The Local Government may subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt any indigo factory or any factory situated on and used solely

for the purposes of, a tea or coffee plantation, from all or any of the provisions of sections 21 and 22, on such conditions, if any, as it may impose

Amendment of section 33 Act XII of 1911

19. In sub section (*1*) of section 33 of the said Act, for clauses (*a*) and (*b*), the words "on or before the date on which the factory commences working as such" shall be substituted

Substitution of new section for section 35, Act XII of 1911

20 For section 35 of the said Act the following section shall be substituted, namely —

Register of workers

"35 In every factory there shall be kept, in the prescribed form, a register of all the persons employed in such factory, of their hours of work and of the nature of their respective employment"

Amendment of section 36 Act XII of 1911

21. In section 36 of the said Act,—

(*a*) for clause (*b*) of sub section (*1*), the following shall be substituted, namely —

"(*b*) the periods of rest fixed under section 21",

(*b*) in clause (*d*) of sub-section (*1*), for the words "women and children, respectively, if not employed in shifts," the words "all persons employed" shall be substituted,

(*c*) after clause (*d*) of sub section (*1*), the following shall be inserted, namely —

"(*e*) the weekly holidays fixed under section 22"

Amendment of section 37, Act XII of 1911

22 In sub section (*2*) of section 37 of the said Act,—

(*a*) in clause (*g*), after the word "ventilation," the words "and artificial humidification" shall be inserted,

(*b*) in clause (*j*) after the word "machinery," the words "and electrical fittings" shall be inserted,

(*c*) after clause (*j*), the following clause shall be inserted, namely —

"(*jj*) the definition of 'persons' under section 29 who shall be deemed to be persons holding positions of supervision or management or persons employed in a confidential capacity"

Insertion of new section 38A in Act XII of 1911

23 After section 38 of the said Act the following section shall be inserted, namely —

Rules for prevention of anthrax

"38A The Governor General in Council may make rules for the adequate disinfection of wool used in factories which may be infected with anthrax spores"

24. In section 39 of the said Act,—

Amendment of section 39, Act XII of 1911

(*a*) in sub section (*1*), for the word and figures "section 38," the words and figures "sections 38 and 38A" shall be substituted;

(*b*) in sub-section (*2*), for the words and figures "sections 37 and 38," the words and figures "sections 37, 38 and 38A" shall be substituted

25. In section 41 of the said Act,—

Amendment of section 41, Act XII of 1911

(*a*) in clause (*f*), for the words machinery or boilers,' the words 'machinery, electrical fittings or boilers" shall be substituted,

(*b*) in clause (*g*), for the words and figures ' or section 18," the words and figures section 18, section 18A or section [1][19A]" shall be substituted,

(*c*) for the words two hundred, the words 'five hundred' shall be substituted

26. In section 43 of the said Act, for the words ' two hundred" the words five hundred" shall be substituted

Amendment of section 43, Act XII of 1911

27. After section 43 of the said Act, the following section shall be inserted, namely —

Insertion of new section 43A in Act XII of 1911.

Power of Court to pay compensation out of fine

' 43A Where under this Act a Criminal Court imposes a fine or confirms in appeal revision or otherwise, a sentence of fine in respect of an offence causing bodily injury or death, the Court may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured or, in the case of his death to his legal representative

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal "

28. In section 48 of the said Act, at the end of sub section (*2*), the words and figures "or section 44' shall be added

Amendment of section 48, Act XII of 1911

29. In section 50 of the said Act —

Amendment of section 50, Act XII of 1911

(*a*) in sub section (*1*), for the words and figures 'or section 18, ' the words and figures section 18 section 18A or section 19A shall be substituted

1 These figures and letter were substituted for the figures and letter '19B' by s 2 and Schedule I of the Repealing and Amending Act 1923 (11 of 1923)

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Except in the case of an appeal against an order under section 19A, the appellate authority may, on the application of the appellant, suspend the operation of an order of the Inspector pending the decision of the appeal. But where no such suspension has been granted, such order shall be complied with notwithstanding the fact that an appeal has been presented."

Amendment of section 51, Act XII of 1911.

30. In sub-section (*2*) of section 51 of the said Act, for the words and figures "section 24, clause (*a*) and section 29," the words and figures "and section 24, clause (*a*)" shall be substituted.

Amendment of section 52, Act XII of 1911.

31. In section 52 of the said Act, for the words and figures "section 28 and section 32," the words and figures "section 27, section 28 and section 31" shall be substituted.

Amendment of Schedules to Act XII of 1911.

32. For Schedules I and II to the said Act, the Schedule contained in Schedule I to this Act shall be substituted.

33. [*Repeals.*] *Repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).*

SCHEDULE I.

(*See section 32.*)

SCHEDULE TO BE SUBSTITUTED IN THE INDIAN FACTORIES ACT, 1911.

"THE SCHEDULE

(*See section 19B.*)

PART I

1. Work at a furnace where the reduction or treatment of zinc or lead ores is carried on.

2. The manipulation, treatment, or reduction of ashes containing lead, the desilverising of lead or the melting of scrap lead or zinc:

3. The manufacture of solder or alloys containing more than ten per cent. of lead.

4. The manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate, or silicate of lead:

5 Mixing or pasting in connection with the manufacture or repair of electric accumulators

6 The cleaning of work rooms where any of the processes aforesaid are carried on

PART II

1 Where dust or fume from a lead compound is produced in the process provision must be made for drawing the fume or dust away from the persons employed by means of an efficient exhaust draught so contrived as to operate on the dust or fume as nearly as may be at its point of origin

2 The persons employed must undergo the prescribed medical examination at the prescribed intervals, and the prescribed record must be kept with respect to their health

3 No food, drink, or tobacco, shall be brought into, or consumed in, any room in which the process is carried on, and no person shall be allowed to remain in any such room during meal times

4 Adequate protective clothing in a clean condition shall be provided by the employer and worn by the persons employed

5 Such suitable cloak room, mess room and washing accommodation as may be prescribed shall be provided for the use of the persons employed

6 The rooms in which the persons are employed, and all tools and apparatus used by them, shall be kept in a clean condition "

[*SCHEDULE II*]

[*Repeals*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)*

ACT No III OF 1922 [1]

[*9th February, 1922*]

An Act to amend the Benares Hindu University Act, 1915

WHEREAS it is expedient to amend the Benares Hindu University
1915 Act, 1915, It is hereby enacted as follows —

1 This Act may be called the Benares Hindu University (Amendment) Act, 1922 Short title

1 For Statement of Objects and Reasons see Gazette of India 1922 Pt V, p 14

Amendment of section 9, Act XVI of 1915

2. For sub-section (2) of section 9 of the Benares Hindu University Act, 1915, the following shall be substituted, namely:— XVI

"(2) No person not being a Hindu shall become or be appointed a member of any Court other than the first Court unless he has been a member of the first Court."

ACT No. VI OF 1922 [1]

[*1st March, 1922.*]

An Act further to amend the Indian Lunacy Act, 1912.

WHEREAS it is expedient further to amend the Indian Lunacy Act, IV of 1912; It is hereby enacted as follows:—

Short title

1. This Act may be called the Indian Lunacy (Amendment) Act, 1922.

Amendment of section 3, Act IV of 1912

2. In section 3 of the Indian Lunacy Act, 1912 (hereinafter referred IV o to as the said Act),—

(a) in clause (1), after the word "asylum" where it occurs for the second time, the words "or mental hospital" shall be inserted; and

(b) to clause (2) the following shall be added, namely:—

"together with any other charges specified in this behalf by the Governor General in Council, in exercise of any power conferred upon him by this Act."

Amendment of section 84, Act IV of 1912

3. To section 84 of the said Act, the following words shall be added, namely:—

"If it is satisfied that provision has been or will be made for the curative treatment therein of persons suffering from mental diseases."

Insertion of new section 84A in Act IV of 1912

4. After section 84 of the said Act, the following section shall be inserted, namely:—

Power to cancel licence if provision for curative treatment is insufficient

"84A. If in any licensed asylum no provision for curative treatment has been made, or the Local Government considers that the provision made is insufficient, the Local Government may require the person in charge of the asylum to take such measures for making or supplementing such provision as it may deem necessary, and, if such person does not comply with the requisition within a reasonable time, the Local Government may revoke the licence."

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 70.

5. After section 89 of the said Act, the following sections shall be inserted, namely — Insertion of new sections 89A and 89B in Act IV of 1912.

"89A The Governor General in Council may, by general or special order, prescribe the amount payable on account of the cost of maintenance of lunatics detained in any asylum for the cost of whose maintenance any Local Government is liable and the proportions in which such amount shall be payable respectively by the Local Governments so liable Any such amount may include charges on account of the upkeep of the asylum and of the capital cost of the establishment of the asylum Fixation of cost of maintenance

89B (1) When under the provisions of this Act the cost of the maintenance of a lunatic is payable by the Government then such cost shall be payable— Incidence of costs of maintenance payable by Government

(a) in the case of a lunatic not domiciled in British India, by the Local Government of the province in which the reception order or the order under section 25 as the case may be, was made, and

(b) in the case of a lunatic domiciled in British India, by the Local Government of the province in which the lunatic has last resided for a period of five years before the reception order or the order under section 25 as the case may be, was made or if the lunatic has not been resident in any one province for such period by the Local Government of the province in which such order was made

(2) If any question arises as to the incidence of the cost of maintenance of any lunatic under sub section (1) the question shall be referred to the Governor General in Council and his decision thereon shall be final'

ACT No VII OF 1922[1]

[5th March 1922]

An Act to amend the law relating to emigration

WHEREAS it is expedient to amend the law relating to emigration, It is hereby enacted as follows —

CHAPTER I

PRELIMINARY

1 (1) This Act may be called the Indian Emigration Act, 1922 Short title and extent

[1] For Statement of Objects and Reasons see Gazette of India 1921 Pt V p 109 and for Report of Select Committee see ibid 1922 Pt V p 17

Amendment of section 9, Act XVI of 1915

2. For sub section (2) of section 9 of the Benares Hindu University Act, 1915, the following shall be substituted, namely — XV

"(2) No person not being a Hindu shall become or be appointed a member of any Court other than the first Court unless he has been a member of the first Court"

ACT No VI OF 1922 [1]

[*1st March, 1922*]

An Act further to amend the Indian Lunacy Act, 1912

WHEREAS it is expedient further to amend the Indian Lunacy Act, IV 1912, It is hereby enacted as follows —

Short title

1. This Act may be called the Indian Lunacy (Amendment) Act, 1922

Amendment of section 3, Act IV of 1912

2 In section 3 of the Indian Lunacy Act, 1912 (hereinafter referred IV to as the said Act),—

(a) in clause (1), after the word asylum" where it occurs for the second time, the words 'or mental hospital" shall be inserted, and

(b) to clause (2) the following shall be added, namely —

'together with any other charges specified in this behalf by the Governor General in Council, in exercise of any power conferred upon him by this Act"

Amendment of section 84, Act IV of 1912

3 To section 84 of the said Act, the following words shall be added, namely —

If it is satisfied that provision has been or will be made for the curative treatment therein of persons suffering from mental diseases"

Insertion of new section 84A in Act IV of 1912

4. After section 84 of the said Act the following section shall be inserted namely —

Power to cancel licence if provision for curative treatment is insufficient

"84A If in any licensed asylum no provision for curative treatment has been made, or the Local Government considers that the provision made is insufficient, the Local Government may require the person in charge of the asylum to take such measures for making or supplementing such provision as it may deem necessary, and, if such person does not comply with the requisition within a reasonable time the Local Government may revoke the licence"

[1] For Statement of Objects and Reasons see Gazette of India, 1922 Pt V, p 70

5. After section 89 of the said Act, the following sections shall be inserted, namely:— *Insertion of new sections 89A and 89B in Act IV of 1912.*

"89A. The Governor General in Council may, by general or special order, prescribe the amount payable on account of the cost of maintenance of lunatics detained in any asylum for the cost of whose maintenance any Local Government is liable and the proportions in which such amount shall be payable respectively by the Local Governments so liable. Any such amount may include charges on account of the upkeep of the asylum and of the capital cost of the establishment of the asylum. *Fixation of cost of maintenance.*

89B. (1) When under the provisions of this Act the cost of the maintenance of a lunatic is payable by the Government, then such cost shall be payable— *Incidence of costs of maintenance payable by Government.*

(a) in the case of a lunatic not domiciled in British India, by the Local Government of the province in which the reception order or the order under section 25, as the case may be, was made; and

(b) in the case of a lunatic domiciled in British India, by the Local Government of the province in which the lunatic has last resided for a period of five years before the reception order or the order under section 25, as the case may be, was made, or, if the lunatic has not been resident in any one province for such period, by the Local Government of the province in which such order was made.

(2) If any question arises as to the incidence of the cost of maintenance of any lunatic under sub-section (1), the question shall be referred to the Governor General in Council and his decision thereon shall be final."

ACT No. VII OF 1922.[1]

[5th March, 1922.]

An Act to amend the law relating to emigration.

WHEREAS it is expedient to amend the law relating to emigration; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Emigration Act, 1922. *Short title and extent.*

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[1] For Statement of Objects and Reasons, see Gazette of India, 1921, Pt. V, p. 109, and for Report of Select Committee, see ibid., 1922, Pt. V, p. 17.

(Chapter I.—Preliminary.)

(2) It extends to the whole of British India.

Definitions. **2.** (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "dependant" means any woman or child who is related to an emigrant and any aged or incapacitated relative of an emigrant;

(*b*) "emigrant" means any person who emigrates or has emigrated or who has been registered as an emigrant under this Act, and includes any dependant of an emigrant, but does not include—

(i) any person emigrating to a country in which he has resided for not less than five years or the wife or child of such person, or

(ii) the wife or child of any person who has lawfully emigrated when such wife or child departs for the purpose of joining such person;

(*c*) "emigrate" and "emigration" mean the departure by sea out of British India of—

(i) any person who departs under an agreement to work for hire in any country beyond the limits of India, and

(ii) any person who is assisted to depart, otherwise than by a relative, if he departs, for the purpose or with the intention of working for hire or engaging in agriculture in any country beyond the limits of India;

[1][(*cc*) "emigrant ship" means any ship specially chartered for the conveyance of emigrants, or conveying emigrants exceeding a number to be prescribed:

Provided that the Governor General in Council may, by notification in the Gazette of India, declare that ships conveying emigrants to any specified port shall not be deemed to be emigrant ships;]

(*d*) "prescribe" means to prescribe by rules made under this Act;

(*e*) "work" with its grammatical variations means skilled or unskilled work;

[1] This clause was inserted by s. 2 of the Indian Emigration (Amendment) Act, 1927 (27 of 1927).

(f) "skilled work" means—

(i) working as an artisan, or

(ii) working as a clerk or shop assistant, or

(iii) working for the purpose of any exhibition or entertainment, or

(iv) service in any restaurant, tea-house or other place of public resort, or

(v) domestic service, or

(vi) any other occupation which the Governor General in Council may, by notification in the Gazette of India, declare to be skilled work.

(g) "unskilled work" includes engaging in agriculture.

(2) In case of any doubt or dispute arising otherwise than in the course of any legal proceedings as to whether—

(a) any person is an emigrant, or

(b) any work is skilled or unskilled, or

(c) any person has been assisted otherwise than by a relative,

within the meaning of this Act, the question shall be determined by such person and in such manner as the Local Government may prescribe, and such determination shall be final.

CHAPTER II

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS

3. (1) Subject to the control of the Governor General in Council, the Local Government may appoint a person to be the Protector of Emigrants for any port situate within the territories administered by it from which emigration is lawful. Appointment of Protectors of Emigrants.

(2) The Local Government may define the area to which the authority of a Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

4. Every Protector of Emigrants, in addition to the special duties assigned to him by or under this Act, shall— General duty of Protector.

(a) protect and aid with his advice all emigrants;

(*Chapter II —Protectors of Emigrants and Medical Inspectors*)

(*b*) cause so far as he can all the provisions of this Act and of the rules made thereunder to be complied with

(*c*) inspect, at the time of arrival to such extent and in such manner as the Local Government may prescribe, vessels bringing return emigrants to the port for which he is Protector

(*d*) inquire into the treatment received by return emigrants both during the period of their residence in the country to which they emigrated and also during the return voyage and report thereon to the Local Government

(*e*) aid and advise return emigrants so far as he reasonably can and

(*f*) on being satisfied that any person intending to depart by sea out of British India comes within one of the classes expressly excluded from the definition of emigrant in section 2 furnish such person with a certificate to the effect that such person is not an emigrant for the purpose of this Act

Power to appoint persons to exercise functions of a Protector

5 (*1*) In any specified area where there is not a Protector of Emigrants the Local Government subject to the control of the Governor General in Council may appoint any person to perform all or any of the duties of a Protector of Emigrants under this Act

(*2*) Every person so appointed shall be a public servant within the meaning of the Indian Penal Code XLV 1860

Appointment of Medical Inspectors

6 (*1*) The Local Government may appoint one or more Medical Inspectors of Emigrants at any port from which emigration is lawful or at any other place and where more than one are appointed may apportion their respective duties

(*2*) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code XLV 1860

Agents in foreign countries

7 The Governor General in Council may for the purpose of safeguarding the interests of emigrants in any place outside British India, appoint persons to be agents in such places and may define their powers and duties

Advisory Committees

8 The Local Government may for the purpose of assisting any Protector of Emigrants appointed by it or any person appointed by it under section 5 constitute an Advisory Committee in such manner as it may think fit and may prescribe the procedure to be followed and the functions to be performed by such committee

CHAPTER III

EMIGRATION FOR THE PURPOSE OF UNSKILLED WORK

9. (1) Emigration for the purpose of unskilled work, shall not be lawful except from the ports of Calcutta, Madras, Bombay, Karachi, Negapatam, Tuticorin and Dhanushkodi and from such other ports as the Governor General in Council may by notification in the Gazette of India declare to be ports from which such emigration is lawful. Ports from which emigration of unskilled workers is lawful

(2) The Local Government may, by notification in the local official Gazette, fix for the purposes of this Act the limits of any port from which such emigration is lawful.

10. (1) Emigration for the purpose of unskilled work, shall not be lawful except to such countries and on such terms and conditions as the Governor General in Council, by notification[1] in the Gazette of India, may specify in this behalf. Countries to which emigration of unskilled workers is lawful

(2) No notification shall be made under sub-section (1) unless it has been laid in draft before both Chambers of the Indian Legislature and has been approved by a resolution of each Chamber, either without modification or addition or with modifications and additions to which both Chambers agree, but upon such approval being given, the notification may be issued in the form in which it has been so approved.

11. (1) Where the Governor General in Council has reason to believe that in any country to which emigration for the purpose of unskilled work is lawful plague or any other epidemic disease dangerous to human life has broken out, and that emigrants if allowed to emigrate to that country would be exposed to serious risk to life on arrival there, he may, by notification in the Gazette of India, declare that emigration to that country for the purpose of unskilled work shall cease to be lawful. Power to suspend emigration of unskilled workers

(2) Where a Local Government has reason to believe that such a state of affairs as is described in sub-section (1) exists in any country to which emigration for the purpose of unskilled work is lawful, it may, by notification in the local official Gazette, declare that emigration to that country for the purpose of unskilled work from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor General in Council.

[1] For such Notification see Gen. R. and O., Vol. V, pp. 8-10.

(Chapter III.—Emigration for the purpose of Unskilled Work. Chapter IV.—Emigration for the purpose of Skilled Work.)

(3) The Local Government publishing a notification under sub-section (2) shall forthwith report such notification with the reasons for it to the Governor General in Council, who shall thereupon publish a notification in the Gazette of India confirming or cancelling the notification published by the Local Government.

Revocation of prohibition.

12. Where the Governor General in Council is satisfied that the ground on which a notification under sub-section (1) of section 11, or a notification under sub-section (3) of section 11 confirming a notification of a Local Government has been made with respect to any country, has ceased to exist, he may, by notification in the Gazette of India, declare that emigration to that country for the purpose of unskilled work shall again be lawful from a date to be specified in the notification.

Powers of Governor General in Council to prohibit emigration to specified country.

13. (1) The Governor General in Council may, by notification in the Gazette of India, prohibit, from a date, and for reasons, to be specified in the notification, all persons or any specified class of persons from emigrating to any specified country from the territories under the administration of any Local Government or any specified part thereof, for the purpose of unskilled work.

(2) Every notification issued under this section shall be laid before both Chambers of the Indian Legislature as soon as may be after it is made.

Saving.

14. A notification under section 10, section 11, section 12 or section 13 shall not affect any act done, offence committed, or legal proceedings commenced before the date on which such notification takes effect.

CHAPTER IV

EMIGRATION FOR THE PURPOSE OF SKILLED WORK

Ports from which emigration of skilled workers is lawful.

15. Emigration, for the purpose of skilled work, shall not be lawful except from a port from which emigration for the purpose of unskilled work is lawful and from such other ports[1] as the Governor General in Council may, by notification in the Gazette of India, specify in this behalf.

Emigration of skilled workers.

16. (1) Whoever desires to engage, or to assist, any person to emigrate for the purpose of skilled work shall apply for the permission of

[1] For declaration of Rangoon as such a port, see Gen. R. and O., Vol. V, p. 10.

(Chapter IV.—Emigration for the purpose of Skilled Work.)

the Local Government having jurisdiction at the port from which such person is to depart, and shall state in his application—

(a) the number of persons whom he proposes so to engage or assist;

(b) the place beyond the limits of India to which each such person and his dependants are to proceed,

(c) the accommodation to be provided for each such person and his dependants until their departure out of India and during the voyage

(2) Whoever desires to engage any person for the purpose described in sub-section (1) shall in addition to the information which he is required by that sub-section to supply in his application, further state therein—

(a) the provision to be made for the health and well-being of such person and his dependants during the period of the proposed engagement and for their repatriation at the end of such period,

(b) the terms of the agreement under which such person is to be engaged,

(c) the security in British India which he proposes to furnish for the due observance of such agreement and for the proper treatment of the person to be engaged and his dependants

17. On receiving an application under section 16 the Local Government may, after such inquiry as it may deem necessary, grant the permission applied for on such terms and conditions (if any) and on payment of such fees (if any) as it thinks fit or withhold such permission, and the decision of the Local Government shall be final

Applications how to be disposed of

18. (1) Before any person departs from British India in accordance with permission granted under section 17 the person by whom he has been engaged or assisted shall appear in person or by his duly authorised agent before the Protector of Emigrants at the port of embarkation with such first-mentioned person and with any persons intending to accompany him as his dependants

Appearance of engaged persons before and registration of names by, Protector of Emigrants

(2) If it appears to the Protector of Emigrants—

(a) that permission to engage or assist such person has been duly obtained,

(*Chapter IV.—Emigration for the purpose of Skilled Work.*)

(*b*) in the case of an engagement, that the terms of the agreement under which such person has been engaged are in accordance with the terms of the permission granted and are understood by him, and

(*c*) that the conditions on which the permission was granted have been complied with,

he shall register in a book to be kept for the purpose such particulars concerning the person engaged or assisted and his dependants (if any) and concerning the person engaging or assisting him, and in such form, as the Local Government may prescribe.

Provisions as to security.

19. Where such security as is referred to in sub-section (*2*) of section 16 has been furnished, the Local Government may, at any time after making such inquiry as it may deem necessary, pass orders in regard to the forfeiture of the security in whole or in part and the application of the same or any part thereof, and, on the expiry of the period to which the agreement relates and on being satisfied that no ground exists for forfeiting the security in whole or in part, order the return of the security or of any part thereof to the person by whom it was furnished or to his representative.

Delegation to *Protector* of Emigrants of authority to receive or dispose of applications.

20. The Local Government may, by notification in the local official Gazette, authorise a Protector of Emigrants to receive and dispose of applications made under this Chapter:

Provided that an appeal shall lie to the Local Government from every order passed by a Protector of Emigrants in exercise of the authority so conferred.

Power to prohibit emigration of skilled workers.

21. (*1*) Where the Governor General in Council has reason to believe that sufficient grounds exist for prohibiting emigration of skilled workers to any country, he may, by notification in the Gazette of India, declare that such emigration to that country shall cease to be lawful from a date specified in the notification, and from that date such emigration to that country shall accordingly cease to be lawful.

(*2*) Every notification issued under this section shall be laid before both Chambers of the Indian Legislature as soon as may be after it is made.

Saving.

22. Nothing in this Chapter shall apply in any case in which a person engages another to accompany him out of India as his personal domestic servant.

(Chapter V.—Rules.)

CHAPTER V

RULES

23\. Subject to the control of the Governor General in Council, the Local Government may, by notification in the local official Gazette, make rules consistent with this Act to prescribe the person by whom any doubt or dispute referred to in sub-section (2) of section 2 shall be determined and the procedure to be followed and the proof to be required in such cases, and to provide for any other matter which the Local Government is by this Act empowered to prescribe.

Power of Local Government to make rules.

24\. (*1*) The Governor General in Council may, by notification in the Gazette of India and after previous publication, make rules[1] for the purpose of carrying into effect the provisions of this Act.

Power for the Governor General in Council to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the powers and duties of the several officers appointed by the Governor General in Council under this Act;

(*b*) the licensing, supervision and control of all persons employed in British India in connection with the inducement of persons to emigrate and with the conveyance and accommodation of persons so induced;

(*c*) the establishment, supervision and regulation of any places of accommodation provided for emigrants and for their medical care while resident there;

(*d*) the forms to be maintained and the returns to be submitted by persons licensed in accordance with rules framed under clause (*b*);

(*e*) the information to be furnished by persons licensed in accordance with rules framed under clause (*b*) to emigrants and the language in which such information is to be furnished;

(*f*) the production and examination of emigrants before District Magistrates or such other authorities as may be appointed in this behalf;

(*g*) the age below which persons of either sex may not emigrate except as dependants;

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[1] For such rules, *see* Gen. R. and O., Vol. V, p. 11.
For fees in respect of emigrants to such countries, *see ibid.*, p. 48.
For the modifications with which the rules apply in Ceylon, the Straits Settlements, the Federated Malay States and Unfederated Malay States, *see ibid.*, p. 45.

(*h*) the accommodation, the provisions, fuel and other necessaries, the medical stores and staff, the life saving and sanitary arrangements, and the records to be maintained on [1][emigrant ships];

(*i*) the reception and the despatch to their homes of return emigrants;

(*j*) the fees, if any, payable by Emigration Agents to Protectors of Emigrants for each emigrant departing from India; and

(*k*) generally, the security, well being and protection of emigrants [2][up to the date of their departure from India, during a voyage on an emigrant ship] and on their return to India.

CHAPTER VI

OFFENCES

Unlawful emigration or inducement to emigrate.

25. (*1*) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act, emigrates or attempts to emigrate shall be punishable with fine which may extend to fifty rupees.

(*2*) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—

(*a*) makes, or attempts to make, any agreement with any person purporting to bind that person or any other person to emigrate, or

(*b*) induces or attempts to induce any person to emigrate or to attempt to emigrate or to leave any place for the purpose of emigrating, or

(*c*) causes any person engaged or assisted by him, after grant of the permission referred to in section 17, to depart by sea out of British India without registration of the particulars required by sub section (*2*) of section 18,

shall be punishable with fine, which may extend to five hundred rupees.

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[1] These words were substituted for the words "any ship specially chartered for the transport of emigrants" by s. 3 of the Indian Emigration (Amendment) Act, 1927 (27 of 1927).

[2] These words were substituted for the words "both up to the date of their actual departure from India", *ibid*.

(Chapter VI.—Offences. Chapter VII.—Supplemental.)

(3) If any person commits an offence under this section, any police officer may arrest him without warrant.

26. Whoever by means of intoxication, coercion or fraud causes or induces or attempts to cause or induce any person to emigrate, or enter into any agreement to emigrate or leave any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both. Fraudulent by inducing to emigrate.

27. Whoever falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both. False representation of Government authority.

28. No prosecution shall be instituted for any offence under this Chapter except with the sanction of a Protector of Emigrants or of a person appointed under section 5 and empowered in this behalf, or, where there is no Protector or person so appointed and empowered, of the District Magistrate: Sanction to prosecutions.

Provided that no sanction shall be required when an offence has been committed in respect of an emigrant or an intended emigrant and the complaint is filed by such emigrant or intended emigrant or on behalf of such emigrant or intended emigrant by the father, mother, husband, wife or guardian of such emigrant or intended emigrant or, if such emigrant or intended emigrant is a member of a joint Hindu family, by the manager of that family.

29. All the powers for the time being conferred by law on officers of sea customs with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof may be exercised by those officers for the prevention of offences against this Act. Power for Customs officer to search and detain for purposes of Act.

CHAPTER VII

SUPPLEMENTAL

30. (1) The departure by land out of British India of any person under, or with a view to entering into, an agreement to work for hire, or when assisted, otherwise than by a relative, so to depart for the purpose or with the intention of working for hire or engaging in agriculture in any country beyond the sea is prohibited. Prohibition of departure by land under an agreement to work for hire in some country beyond the sea.

(2) Whoever departs, or attempts to depart, by land out of British India in contravention of this section, shall be deemed to have committed an offence under sub-section (1) of section 25.

(3) Whoever induces, or attempts to induce, any person to depart by land out of British India in contravention of this section shall be deemed to have committed an offence under sub-section (2) of section 25.

CHAPTER VIII

SAVINGS AND REPEAL

Application of Act.

31. Nothing in this Act shall be deemed to apply to the departure out of British India of—

(i) any person who is neither of Indian parentage nor a subject of a State in India, or

(ii) any person enrolled under the Indian Army Act, 1911. VIII

Saving.

32. Notwithstanding anything contained in this Act, the provisions of this Act shall not apply for a period of twelve months from the date of the commencement of this Act to persons emigrating to Ceylon, the Straits Settlements, or any protected Native State adjoining the Straits Settlements.

33. *[Repeal.] Repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).*

ACT No. VIII OF 1922 [1]

[5th March, 1922.]

An Act to establish and incorporate a unitary teaching and residential University at Delhi.

WHEREAS it is expedient to establish and incorporate a unitary teaching and residential University at Delhi; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Delhi University Act, 1922.

(2) It shall come into force on such [2]date as the Governor General in Council may, by notification in the Gazette of India, direct.

[1] For Statement of Objects and Reasons, see Gazette of India, 1922, Pt. V, p. 12; and for Report of Joint Committee, see *ibid*, 1922, Pt. V, p. 89.
[2] The 1st May, 1922, see Gen. R. and O., Vol. V, p. 49.

2 In this Act and in the Statutes, unless there is anything repugnant in the subject or context,— Definitions

(a) "College" means an institution maintained or recognized by the University in accordance with the provisions of this Act, in which instruction is provided under conditions prescribed in the Statutes, and in which provision is made for residence of students of the University,

(b) "Hall" means a unit of residence for students of the University maintained or recognized by the University in accordance with the provisions of this Act

(c) "Patron of the University" means a person who has made a donation of not less than one lakh of rupees to the funds of the University, and has been declared by the Chancellor to be a Patron of the University,

(d) "Principal" means the head of a College,

(e) "registered graduate" means a graduate registered under the provisions of this Act,

(f) "Statutes," "Ordinances" and "Regulations" mean, respectively the Statutes Ordinances and Regulations of the University made under this Act,

(g) "teachers" includes Professors, Readers Lecturers and other persons imparting instruction in the University or in any College or Hall,

(h) "teachers of the University" means persons appointed or recognized by the University under the provisions of this Act for the purpose of imparting instruction in the University or any College,

(i) "University" means the University of Delhi and

(j) "Warden" means the head of a Hall

The University

3 (1) The first Chancellor and the first Vice Chancellor of the University and the first members of the Court the Executive Council and the Academic Council and all persons who may hereafter become such officers or members so long as they continue to hold such office or membership are hereby constituted a body corporate by the name of the University of Delhi The University

(2) The University shall have perpetual succession and a Common Seal, and shall sue and be sued by the said name

Powers of the University.

4. The University shall have the following powers namely —

(1) to provide for instruction in such branches of learning as the University may think fit and to make provision for research and for the advancement and dissemination of knowledge,

(2) to hold examinations and to grant to and confer degrees and other academic distinctions on persons who—

(a) have pursued a course of study in the University, or

(b) are teachers in educational institutions

under conditions laid down in the Ordinances and Regulations and have passed the examinations of the University under like conditions,

(3) to confer honorary degrees or other distinctions on approved persons in the manner laid down in the Statutes

(4) to grant such diplomas to and to provide such lectures and instruction for persons not being members of the University as the University may determine

(5) to co-operate with other Universities and authorities in such manner and for such purposes as the University may determine

(6) to institute Professorships Readerships Lectureships and any other teaching posts required by the University,

(7) to appoint or recognize persons as Professors Readers or Lecturers or otherwise as teachers of the University

(8) to institute and award Fellowships, Scholarships Exhibitions and Prizes in accordance with the Statutes and the Regulations

(9) to maintain Colleges and Halls to recognize Colleges and Halls not maintained by the University and to withdraw such recognition,

(10) to demand and receive payment of such fees and other charges as may be authorised by the Ordinances

(11) to supervise and control the residence and discipline of students of the University and to make arrangements for promoting their health and general welfare

(12) to make grants from the funds of the University for the maintenance of the University corps of the Indian Territorial Force, and

(13) to do all such other acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the objects

of the University as a teaching and examining body, and to cultivate and promote arts, science and other branches of learning

5. (*1*) Save as otherwise provided in this Act, the powers of the University conferred by or under this Act shall not extend beyond a radius of 10 miles from the Convocation Hall of the University, and, notwithstanding anything in any other law for the time being in force, no educational institution beyond that limit shall be associated with or admitted to any privileges of the University **Territorial exercise of powers.**

Provided that nothing in this sub-section shall apply to any agricultural or other technical institution established or maintained in connection with the University with the sanction of the Governor General in Council

(2) Notwithstanding anything in any other law for the time being in force, no educational institution within the afore-mentioned limit shall be associated in any way with or be admitted to any privileges of any other University incorporated by law in British India, and any such privileges granted by any such other University to any educational institution within that limit prior to the commencement of this Act shall be deemed to be withdrawn on the commencement of this Act

[1]Provided that the Governor General in Council may, by order in writing direct that the provisions of this sub-section shall not apply in the case of any institution specified in the order

6. The University shall be open to all persons of either sex and of whatever race, creed or class, and it shall not be lawful for the University to adopt or impose on any person any test whatsoever of religious belief or profession in order to entitle him to be admitted thereto as a teacher or student, or to hold any office therein, or to graduate thereat or to enjoy or exercise any privilege thereof, except where such test is specially prescribed by the Statutes or, in respect of any particular benefaction accepted by the University, where such test is made a condition thereof by any testament or other instrument creating such benefaction **University open to all classes, castes and creeds**

Provided that nothing in this section shall be deemed to prevent religious instruction being given in the manner prescribed by the Ordinances to those not unwilling to receive it by persons (whether teachers of the University or not) approved for that purpose by the Executive Council

1 For notification directing that the provisions of this sub-section shall not apply to the Lady Hardinge Medical College for Women at Delhi see Gazette of India, 1922 Pt I p 491, to the Dayanand National High School Delhi, see *ibid*, 1923, Pt I p 498 and to certain High Schools see *ibid*, 1923, Pt I, p 259

Teaching of the University

7. (*1*) All recognized teaching in connection with the University courses shall be conducted under the control of the Academic Council by teachers of the University, and shall include lecturing, laboratory work and other teaching conducted in accordance with any syllabus prescribed by the Regulations

(*2*) Every teacher of the University shall be attached to a College, and at least one such teacher shall be attached to each College

(*3*) The authorities responsible for organizing such teaching shall be prescribed by the Statutes

(*4*) The courses and curricula shall be prescribed by the Ordinances and, subject thereto, by the Regulations

(*5*) Save as otherwise expressly provided by this Act, it shall not be lawful for the University or any College to maintain classes, after the expiration of five years from the commencement of this Act, for the purpose of preparing students for admission to the University save with the sanction of the Governor General in Council and during such period as he may direct, or at any time to frame courses, conduct examinations or recognise institutions for the purpose of preparing or testing students for admission to the University save with such sanction and during such period

Officers of the University

Officers of the University

8 The following shall be the officers of the University

(I) the Chancellor,

(II) the Pro Chancellor,

(III) the Vice Chancellor,

(IV) the Rector

(V) the Treasurer

(VI) the Registrar,

(VII) the Deans of the Faculties, and

(VIII) such other persons in the service of the University as may be declared by the Statutes to be officers of the University.

The Chancellor

9 (*1*) The Chancellor shall be the Governor General He shall by virtue of his office be the head of the University and the President of the Court, and shall when present, preside at meetings of the Court and at any Convocation of the University

(2) The Chancellor shall have the right to cause an inspection to be made, by such person or persons as he may direct, of the University, its buildings, laboratories, equipment, and of any institutions associated with the University, and also of the examinations, teaching and other work conducted or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the University The Chancellor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to be represented thereat

(3) The Chancellor may address the Vice Chancellor with reference to the results of such inspection or inquiry and the Vice Chancellor shall communicate to the Executive Council the views of the Chancellor and shall after ascertaining if he so thinks fit the opinion of the Executive Council thereon advise the University upon the action to be taken thereon

(4) The Executive Council shall report to the Vice Chancellor for communication to the Chancellor such action if any, as it is proposed to take or has been taken upon the results of such inspection or inquiry

(5) The Chancellor shall have such other powers as may be conferred on him by this Act or the Statutes

(6) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor

10 The Pro Chancellor shall be appointed by the Chancellor and shall hold office for three years He shall when present in the absence of the Chancellor preside at meetings of the Court and at any Convocation of the University

The Pro Chancellor

11 (1) The Vice Chancellor shall be appointed by the Chancellor after consideration of the recommendations of the Executive Council and shall hold office for such term and subject to such conditions as may be prescribed by the Statutes

The Vice-Chancellor

(2) Where any temporary vacancy in the office of the Vice Chancellor occurs by reason of leave illness or other cause the Executive Council shall forthwith report the same to the Chancellor who shall make such arrangements for carrying on the office of the Vice Chancellor as he may think fit

12 (1) The Vice Chancellor shall be the principal executive and academic officer of the University and shall in the absence of the Chancellor and the Pro Chancellor preside at meetings of the Court and

Powers and duties of the Vice Chancellor

at any Convocation of the University He shall be an *ex-officio* member and Chairman of the Executive Council and of the Academic Council and shall be entitled to be present and to speak at any meeting of any authority or other body of the University but shall not be entitled to vote thereat unless he is a member of the authority or body concerned

(2) It shall be the duty of the Vice Chancellor to see that this Act, the Statutes and the Ordinances are faithfully observed and he shall have all powers necessary for this purpose

(3) The Vice Chancellor shall have power to convene meetings of the Court, the Executive Council and the Academic Council

(4) (a) In any emergency which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, the Vice Chancellor shall take such action as he deems necessary, and shall, at the earliest opportunity thereafter, report his action to the officer, authority or other body who or which in the ordinary course would have dealt with the matter

(b) When action taken by the Vice-Chancellor under clause (a) affects any person in the service of the University such person shall be entitled to prefer an appeal to the Executive Council through the said officer, authority or other body within fifteen days from the date on which such action is communicated to him

(5) The Vice Chancellor shall give effect to any order of the Executive Council regarding the appointment, dismissal or suspension of an officer or teacher of the University, or regarding the recognition or withdrawal of the recognition of any such teacher and shall exercise general control in the University He shall be responsible for the discipline of the University in accordance with this Act the Statutes and the Ordinances

(6) The Vice Chancellor shall exercise such other powers as may be prescribed by the Statutes and the Ordinances

The Rector

13 The Chancellor may appoint a Rector who shall hold office for such term and subject to such conditions and shall exercise such powers, and perform such duties of the Vice Chancellor as the Chancellor, after consultation with the Vice Chancellor may direct

The Treasurer

14 The Treasurer shall be appointed by the Chancellor after consideration of the recommendations of the Executive Council, upon such conditions and for such period and shall receive such remuneration (if

any), as the Executive Council shall deem fit He shall be an *ex-officio* member of the Executive Council and shall—

(1) exercise general supervision over the funds of the University, and advise in regard to its financial policy,

(2) subject to the control of the Executive Council, manage the property and investments of the University and be responsible for the presentation of the annual estimates and statements of accounts

(3) subject to the powers of the Executive Council be responsible for seeing that all monies are expended on the purpose for which they are granted or allotted

(4) sign all contracts made on behalf of the University and

(5) exercise such other powers as may be prescribed by the Statutes and the Ordinances

Provided that the Chancellor may on the recommendation of the Executive Council, in the case of any vacancy in the office of the Treasurer whether permanent or otherwise direct that the Registrar shall act as the Treasurer and perform all the duties and exercise all the powers of the Treasurer, and when any such direction has been made references to the Treasurer in this Act and the Statutes Ordinances and Regulations shall be deemed to be references to the Registrar

15 The Registrar shall act as Secretary of the Court, the Executive Council and the Academic Council He shall maintain a register of registered graduates in accordance with the Statutes and shall exercise such other powers as may be prescribed by the Statutes and the Ordinances — *The Registrar*

16 The powers of officers of the University other than the Chancellor, the Pro Chancellor the Vice Chancellor the Rector the Treasurer and the Registrar shall be prescribed by the Statutes and the Ordinances — *Other officers*

Authorities of the University

17 The following shall be the authorities of the University — — *Authorities of the University*

(I) the Court

(II) the Executive Council

(III) the Academic Council

(IV) the Faculties and

(V) such other authorities as may be declared by the Statutes to be authorities of the University

and shall define their duties and the conditions of their service and shall provide for the filling of temporary vacancies in their posts,

(f) shall have power to accept on behalf of the University transfers of any moveable or immoveable property

(g) shall arrange for the holding of and publish the results of, the University examinations

(h) shall, subject to the powers conferred by this Act on the Vice Chancellor regulate and determine all matters concerning the University in accordance with this Act, the Statutes and the Ordinances

Provided that no action shall be taken by the Executive Council in respect of the appointment or emoluments of examiners, or the number qualifications or emoluments of teachers otherwise than on a recommendation of the Academic Council, and

(i) shall exercise all other power of the University, not otherwise provided for by this Act or the Statutes

The Academic Council

23 The Academic Council shall be the academic body of the University and shall subject to the provisions of this Act the Statutes and the Ordinances have the control and general regulation and be responsible for the maintenance of standards of instruction education and examination within the University and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes It shall have the right to advise the Executive Council on all academic matters The constitution of the Academic Council and the term of office of its members other than *ex officio* members shall be prescribed by the Statutes

The Faculties

24 (1) Provision shall be made as soon as possible after the commencement of this Act for the inclusion in the University of the Faculties of Arts Science Medicine Commerce Technology and Indian Fine Arts (including Music) and such other Faculties shall be included in the University (whether by the sub division or combination of an existing Faculty or Faculties or by the creation of a new Faculty or otherwise) as may be prescribed by the Statutes Each Faculty shall, subject to the control of the Academic Council have charge of the teaching and the courses of study and the research work in such subjects as may be assigned to such Faculty by the Ordinances

(2) The constitution and powers of the Faculties shall be prescribed by the Statutes

(3) There shall be a Dean of each Faculty, who shall be responsible for the due observance of the Statutes Ordinances and Regulations relating to the Faculty

(4) Each Faculty shall comprise such Departments of teaching as may be prescribed by the Ordinances The head of every such Department shall be the Professor of the Department or, if there is no Professor, the Reader If there is more than one Professor or more than one Reader of a Department the Vice Chancellor shall appoint to be head of the Department such one of the Professors or if there is no Professor, such one of the Readers as he thinks fit The head of the Department shall be responsible to the Dean for the organization of the teaching in that Department

(5) The Dean of a Faculty shall be elected by the Faculty from among the heads of Departments of the Faculty, and shall hold office as Dean for such term as may be prescribed by the Statutes

Other authorities of the University

25. The constitution powers and duties of such other authorities as may be declared by the Statutes to be authorities of the University shall be provided for in the manner prescribed by the Statutes

University Boards

University Boards

26 The University shall include a Residence Health and Discipline Board and such other Boards as may be prescribed by the Statutes

Constitution, etc, of Boards to be prescribed by Ordinances

27. The constitution powers and duties of the Residence, Health and Discipline Board and of all other Boards of the University shall be prescribed by the Ordinances

Statutes Ordinances and Regulations

Statutes

28 Subject to the provisions of this Act the Statutes may provide for all or any of the following matters namely —

(a) the conferment of honorary degrees.

(b) the institution of Fellowships, Scholarships, Exhibitions and Prizes;

(c) the term of office and conditions of service of the Vice Chancellor

(d) the designations and powers of the officers of the University,

(e) the constitution, powers and duties of the authorities of the University,

(f) the institution of Colleges and Halls and their maintenance,

(g) the recognition and management of Colleges and Halls not maintained by the University, and the withdrawal of such recognition,

(h) the mode of appointment and recognition of teachers of the University,

(i) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers, clerical staff and servants of the University,

(j) the maintenance of a register of registered graduates, and

(k) all matters which by this Act are to be or may be prescribed by the Statutes

Statutes how made

29. (1) The first Statutes shall be those set out in the Schedule

(2) The Statutes may be amended, repealed or added to by Statutes made by the Court in the manner hereinafter appearing

(3) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court Such draft shall be considered by the Court at its next meeting The Court may pass the Statute, or a part of it, in the form in which it has been proposed, or may reject the Statute or part of it, or may return the Statute to the Executive Council for reconsideration, either in whole or in part, together with any amendments which the Court may suggest

(4) Where any Statute or part of a Statute has been returned to the Executive Council for reconsideration and there is disagreement between the Court and the Executive Council in relation thereto, the matter shall be referred for decision to the Governor General in Council, whose decision shall be final

(5) Where any Statute has been passed or a draft of a Statute or part thereof has been rejected by the Court, it shall be submitted to the Governor General in Council, who may refer the Statute or draft back to the Court for further consideration or, in the case of a Statute passed by the Court assent thereto or withhold his assent A Statute passed by the Court shall have no validity until it has been assented to by the Governor General in Council

(6) The Executive Council shall not propose the draft of any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion upon the proposal. Any opinion so expressed shall be in writing and shall be considered by the Court, and shall be submitted *to the Governor General in Council*.

(7) Any member of the Court may propose to the Court the draft of any Statute and the Court may refer such draft for consideration to the Executive Council, which may either reject the proposal or submit the draft to the Court in such form as the Executive Council may approve, and the provisions of this section shall apply in the case of any draft so submitted as they apply in the case of a draft proposed to the Court by the Executive Council.

30. Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:— **Ordinances.**

(*a*) the admission of students to the University and their enrolment as such;

(*b*) the courses of study to be laid down for all degrees and diplomas of the University;

(*c*) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the University and shall be eligible for degrees and diplomas;

(*d*) the conditions of residence of the students of the University;

(*e*) the emoluments and conditions of service of teachers of the University;

(*f*) the fees to be charged *for courses of study in the University* and for admission to the examinations, degrees and diplomas of the University;

(*g*) the giving of religious instruction;

(*h*) the formation of Departments of teaching in the Faculties;

(*i*) the constitution, powers and duties of the Boards of the University;

(*j*) the conduct of examinations; and

(*k*) all matters which by this Act or the Statutes are to be or may be provided for by the Ordinances.

31. (1) Save as otherwise provided in this section, Ordinances shall be made by the Executive Council. **Ordinances, how made.**

Provided that—

(i) no Ordinance shall be made affecting the conditions of residence of students, except after consultation with the Residence, Health and Discipline Board, and

(ii) no Ordinance shall be made—

(a) affecting the admission or enrolment of students, or prescribing examinations to be recognized as equivalent to the University examinations or prescribing the further qualifications mentioned in sub section (2) of section 36 for admission to the degree courses of the University, or

(b) affecting the conditions, mode of appointment or duties of examiners or the conduct or standard of examinations or any course of study,

unless a draft of such Ordinance has been proposed by the Academic Council

(2) The Executive Council shall not have power to amend any draft proposed by the Academic Council under the provisions of sub section (1), but may reject it or return it to the Academic Council for reconsideration, either in whole or in part together with any amendments which the Executive Council may suggest

(3) All Ordinances made by the Executive Council shall be submitted, as soon as may be, to the Governor General in Council and the Court, and shall be considered by the Court at its next meeting The Court shall have power, by a resolution passed by a majority of not less than two thirds of the members voting, to cancel any Ordinance made by the Executive Council and such Ordinance shall from the date of such resolution, be void

(4) The Governor General in Council may, at any time after any Ordinance has been considered by the Court signify to the Executive Council his disallowance of such Ordinance, and from the date of receipt by the Executive Council of intimation of such disallowance such Ordinance shall become void

(5) The Governor General in Council may direct that the operation of any Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance An order of suspension under this sub section shall cease to have effect on the expiration of one month from

the date of such order, or on the expiration of fifteen days from the date of consideration of the Ordinance by the Court, whichever period expires later.

(6) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Governor General in Council who may, if he approves the draft, make the Ordinance. An Ordinance made under this sub-section shall cease to have effect on the expiration of six months from the making thereof.

32. (1) The authorities and the Boards of the University may make Regulations consistent with this Act, the Statutes and the Ordinances— **Regulations.**

(a) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(b) providing for all matters which by this Act, the Statutes or the Ordinances are to be prescribed by Regulations; and

(c) providing for all other matters solely concerning such authorities and Boards and not provided for by this Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings, and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendment in such manner as it may specify, of any Regulation made under this section or the annulment of any Regulation made under sub section (1):

Provided that any authority or Board of the University which is dissatisfied with any such direction may appeal to the Governor General in Council whose decision in the matter shall be final.

Residence

33. Every student of the University shall reside in a College or a Hall, or under such conditions as may be prescribed by the Statutes and the Ordinances. **Residence.**

34. (1) The Colleges shall be such as may be named in the Statutes. **Colleges.**

(2) The conditions of residence in the Colleges shall be prescribed by the Ordinances, and every College shall be subject to inspection by any

member of the Residence, Health and Discipline Board authorized in this behalf by the Board and by any officer of the University authorized in this behalf by the Executive Council

Halls

35. (*1*) The Halls shall be such as may be maintained by the University or approved and recognized by the Executive Council on such general or special conditions as may be prescribed by the Ordinances

(*2*) The Wardens and superintending staff of the Halls shall be appointed in the manner prescribed by the Statutes

(*3*) The conditions of residence in the Halls shall be prescribed by the Ordinances, and every Hall shall be subject to inspection by any member of the Residence, Health and Discipline Board authorized in this behalf by the Board and by any officer of the University or other person authorized in this behalf by the Executive Council

(*4*) The Executive Council shall have power to suspend or withdraw the recognition of any Hall which is not conducted in accordance with the conditions prescribed by the Ordinances

Admission and Examinations

Admission to University courses

36. (*1*) Admission of students to the University shall be made by an admission committee (including at least one Principal) appointed for that purpose by the Academic Council

(*2*) Students shall not be eligible for admission to a course of study for a degree unless they have passed the Intermediate Examination of an Indian University incorporated by any law for the time being in force, or an examination recognized in accordance with the provisions of this section as equivalent thereto, and possess such further qualifications as may be prescribed by the Ordinances Any such qualification may be tested by examination notwithstanding anything contained in sub section (*5*) of section 7

Provided that during a period of five years from the commencement of this Act and such further period as the Governor General in Council may direct any student who has passed a Matriculation Examination of any such University or any examination recognised in accordance with the provisions of this section as equivalent thereto, may be deemed eligible for admission to the University

(*3*) The conditions under which students may be admitted to the diploma courses of the University shall be prescribed by the Ordinances

(4) The University shall not, save with the previous sanction of the Governor General in Council, recognize (for the purposes of admission to a course of study for a degree), as equivalent to its own degrees, any degree conferred by any other University, or, as equivalent to the Intermediate or Matriculation Examination of an Indian University, any examination conducted by any other authority.

Examinations

37. (1) Subject to the provisions of this Act and of the Statutes, all arrangements for the conduct of examinations shall be made by the Academic Council in such manner as may be prescribed by this Act and the Ordinances.

(2) If during the course of an examination any examiner is for any cause incapable of acting as such, the Vice-Chancellor shall appoint an examiner to fill the vacancy and shall report the appointment to the Executive Council.

(3) At least one examiner who is not a member of the University shall be appointed for each subject included in a Department of teaching and forming part of the course which is required for a University degree.

(4) The Academic Council shall appoint examination committees, consisting of members of its own body or of other persons or of both, as it thinks fit, to moderate examination questions, to moderate and prepare the results of the examinations and to report such results to the Executive Council for publication.

Annual Report and Accounts

Annual report

38. The annual report of the University shall be prepared under the direction of the Executive Council, and shall be submitted to the Court on or before such date as may be prescribed by the Statutes, and shall be considered by the Court at its annual meeting. The Court may pass resolutions thereon and communicate the same to the Executive Council.

Annual accounts

39. (1) The annual accounts and balance sheet of the University shall be prepared under the direction of the Executive Council and shall be submitted to the Governor General in Council for the purposes of audit.

(2) The accounts when audited shall be published by the Executive Council in the Gazette of India, and copies thereof shall, together with copies of the audit report, if any, be submitted to the Court and to the Governor General in Council. The Executive Council shall also submit

to the Court on or before such date as may be prescribed by the Statutes, a statement of the financial estimates for the ensuing year.

(3) The annual accounts and the financial estimates shall be considered by the Court at its annual meeting, and the Court may pass resolutions thereon and communicate the same to the Executive Council.

Supplementary Provisions

Removal of names of registered graduates

40. The Chancellor shall, with the concurrence of not less than two-thirds of the members of the Court for the time being in India, have power to remove the name of any person from the register of registered graduates.

Disputes as to constitution of University authorities and bodies

41. If any question arises whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Chancellor, whose decision thereon shall be final.

Constitution of committees

42. Where any authority of the University is given power by this Act or the Statutes to appoint committees, such committees shall, save as otherwise provided, consist of members of the authority concerned and of such other persons (if any) as the authority in each case may think fit.

Filling of casual vacancies

43. All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as conveniently may be, by the person or body who appointed, elected or co-opted the member whose place has become vacant, and the person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Proceedings of University authorities and bodies not invalidated by vacancies

44. No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

Tribunal of Arbitration

45. Any dispute arising out of a contract between the University and any officer or teacher of the University shall, on the request of the officer or teacher concerned, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned, and an umpire appointed by the Chancellor. The decision of the Tribunal shall be final, and no suit shall lie in any Civil Court in respect of the matters decided by the

Tribunal. Every such request shall be deemed to be a submission to arbitration upon the terms of this section, within the meaning of the
899 Indian Arbitration Act, 1899, and all the provisions of that Act with the exception of section 2 thereof, shall apply accordingly.

Pension and provident funds.

46. (1) The University shall constitute, for the benefit of its officers, teachers, clerical staff and servants in such manner and subject to such conditions as may be prescribed by the Statutes, such pension, insurance and provident funds as it may deem fit.

(2) Where any such pension, insurance or provident fund has been so constituted, the Governor General in Council may declare that the
897. *provisions of the [1]Provident Funds Act, 1897, shall apply to such fund* as if it were a Government Provident Fund.

Transitory Provisions

Removal of difficulties.

47. If any difficulty arises with respect to the establishment of the University or in connection with the first meeting of any authority of the University or otherwise in first giving effect to the provisions of this Act the Governor General in Council may, at any time before all the authorities of the University have been constituted, by order make any appointment or do anything consistent so far as may be with the provisions of this Act and the Statutes which appears to him necessary or expedient for the purpose of removing the difficulty, and every such order shall have effect as if such appointment or action had been made or taken in the manner provided in this Act:

Provided that before making any such order the Governor General in Council shall ascertain and consider the opinion of the Vice Chancellor, if a Vice Chancellor has been appointed and of such of the authorities of the University as have been constituted on the proposed order.

Completion of courses for students at Delhi Colleges.

48. Notwithstanding anything contained in this Act or the Ordinances any student of any of the following Colleges at Delhi namely, the St. Stephen's College, the Hindu College and the Ramjas College who immediately prior to the commencement of this Act was studying for any examination of the University of the Punjab higher than the Intermediate Examination shall be permitted to complete his course in preparation therefor and the University shall provide for such students instruction and examinations in accordance with the Prospectus of Studies of the University of the Punjab.

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1 *See* now the Provident Funds Act, 1925 (19 of 1925).

THE SCHEDULE

[*See section 29 (1)*]

THE FIRST STATUTES OF THE UNIVERSITY

Definitions

1. In these Statutes, unless there is anything repugnant in the subject or context,—

(*a*) "the Act" means the Delhi University Act, 1922 and "section" means a section of the Act and

(*b*) "officers authorities, Professors Readers" "Lecturers clerical staff and servants" mean, respectively, officers, authorities, Professors, Readers, Lecturers, clerical staff and servants of the University

Constitution of the Court.

2 (*1*) In addition to the officers mentioned in sub section (*1*) of section 18 the following persons shall be *ex officio* members of the Court, namely —

(i) the Chief Commissioner of Delhi

(ii) the Director General, Indian Medical Service,

(iii) the Educational Commissioner with the Government of India,

(iv) the Director of Public Instruction in the Punjab

(v) the Superintendent of Education, Delhi and Ajmer Merwara,

(vi) the Chairman of the Punjab Chamber of Commerce,

(vii) the Chairman of the Delhi Municipality

(viii) the Chairman of the Delhi District Board

(ix) the Senior Officer serving in the Public Works Department under the Chief Commissioner of Delhi,

(x) the Senior Medical Officer Delhi

(xi) the Principals of the Intermediate Colleges in Delhi which prepare candidates for admission to the University

(xii) the Wardens

(*2*) The number of graduates to be elected as members of the Court by the registered graduates from among their own body shall be twenty-five

(*3*) The number of teachers to be elected as members of the Court by the teachers other than Professors and Readers shall be ten

(*4*) The number of persons to be elected as members of the Court by associations or other bodies approved in this behalf by the Chancellor shall not exceed eight

(5) The number of persons to be elected by the elected Members of the Council of State and the Legislative Assembly from among their own numbers shall be two and four, respectively

(6) The number of persons to be appointed by the Chancellor under clause (xv) of sub section (1) of section 18 shall be fifteen

(7) Save as otherwise provided, members of the Court other than *ex-officio* members shall hold office for a period of three years

Provided that members elected under clause (xii) of sub section (1) of section 18 shall hold office so long only within the said period as they continue to be teachers

3 (1) The members of the Executive Council in addition to the Vice Chancellor the Rector and the Treasurer, shall be— Constitution of the Executive Council

Class I —Ex officio members

(i) The Superintendent of Education Delhi and Ajmer Merwara,
(ii) the Deans of the Faculties,
(iii) the Principals

Class II —Other members

(iv) Five members of the Court elected by the Court at its annual meeting of whom at least two shall be graduates of the University elected by the registered graduates from among their own number

(v) two members of the Academic Council elected by the Academic Council, and

(vi) two persons nominated by the Chancellor

(2) Members other than *ex officio* members shall hold office for a period of three years

Provided that members elected by any body of persons from among their own number shall hold office so long only within the said period as they continue to be members of the body which elected them

4 Subject to the provisions of the Act the Executive Council shall have the following powers namely — Powers of the Executive Council

(a) to institute at its discretion such Professorships Readerships, Lectureships or other teaching posts as may be proposed by the Academic Council

THE SCHEDULE

[*See section 29 (1)*]

THE FIRST STATUTES OF THE UNIVERSITY

Definitions.

1. In these Statutes, unless there is anything repugnant in the subject or context,—

(a) "the Act" means the Delhi University Act, 1922, and "section" means a section of the Act and

(b) "officers," "authorities," "Professors," "Readers," "Lecturers," "clerical staff" and "servants" mean, respectively, officers, authorities, Professors, Readers, Lecturers, clerical staff and servants of the University

Constitution of the Court.

2. (1) In addition to the officers mentioned in sub section (1) of section 18, the following persons shall be *ex officio* members of the Court, namely —

(i) the Chief Commissioner of Delhi,

(ii) the Director General, Indian Medical Service,

(iii) the Educational Commissioner with the Government of India;

(iv) the Director of Public Instruction in the Punjab,

(v) the Superintendent of Education, Delhi and Ajmer Merwara,

(vi) the Chairman of the Punjab Chamber of Commerce,

(vii) the Chairman of the Delhi Municipality,

(viii) the Chairman of the Delhi District Board,

(ix) the Senior Officer serving in the Public Works Department under the Chief Commissioner of Delhi,

(x) the Senior Medical Officer, Delhi,

(xi) the Principals of the Intermediate Colleges in Delhi which prepare candidates for admission to the University,

(xii) the Wardens

(2) The number of graduates to be elected as members of the Court by the registered graduates from among their own body shall be twenty-five

(3) The number of teachers to be elected as members of the Court by the teachers other than Professors and Readers shall be ten

(4) The number of persons to be elected as members of the Court by associations or other bodies approved in this behalf by the Chancellor shall not exceed eight

5. (*1*) The members of the Academic Council, in addition to the Vice-Chancellor and the Rector, shall be— The Academic Counc

Class I.—Ex officio members.

(i) The Deans of the Faculties;
(ii) the Principals;
(iii) the Professors and Readers; and
(iv) the Librarian of the University.

Class II.—Other members.

(v) Persons, if any, not exceeding three in number and not being teachers, appointed by the Chancellor on account of their possessing expert knowledge in such subjects of study as may be selected by the *ex officio* members of the Academic Council.

(*2*) The Academic Council as constituted under sub-clause (*1*) shall co-opt as members teachers of the University not exceeding one-tenth of its numbers as so constituted.

(*3*) Members other than *ex officio* members shall hold office for a period of three years:

Provided that teachers of the University co-opted as such shall hold office so long only within the said period as they continue to be teachers of the University.

6. The Academic Council shall have the following powers, namely:— Powers of the Academic Council

(*a*) to make proposals to the Executive Council for the institution of Professorships, Readerships, Lectureships or other teaching posts and in regard to the duties and emoluments thereof;

(*b*) to make Regulations for, and to award in accordance with such Regulations, Fellowships, Scholarships, Exhibitions, bursaries, medals and other rewards;

(*c*) to recommend examiners for appointment after report from the Faculties concerned;

(*d*) to control the University Library, to frame Regulations regarding its use, and to appoint a Library Committee under the general control of the Academic Council to manage the affairs of the Library;

(*e*) to assign subjects to the Faculties;

(f) to assign teachers to the Faculties,

(g) to promote research within the University and to require reports on such research from the persons employed thereon

(h) to provide for the inspection of Colleges and Halls in respect of the instruction and discipline therein and to submit reports thereon to the Executive Council and

(i) to organize the teaching of the University and to control the work of teachers and Colleges

The Faculties

7. (1) Each Faculty shall consist of—

(i) the heads of the Departments comprised in the Faculty

(ii) such teachers of subjects assigned to the Faculty as may be appointed to the Faculty by the Academic Council

(iii) such teachers of subjects not assigned to the Faculty but having, in the opinion of the Academic Council an important bearing on those subjects as may be appointed to the Faculty by the Academic Council, and

(iv) such other persons as may be appointed to the Faculty by the Academic Council on account of their possessing expert knowledge in a subject or subjects assigned to the Faculty

(2) The total number of members of each Faculty shall not exceed, in the case of the Faculties of Arts and Science twenty five and in the case of any other Faculty fifteen except with the sanction of the Chancellor given on the request of the Academic Council

Powers of the Faculties

8 Subject to the provisions of the Act each Faculty shall have the following power namely —

(a) to constitute Committees of Courses and Studies and

(b) to recommend to the Academic Council after consulting the Committees of Courses and Studies the names of examiners in subjects assigned to the Faculty

Board of Co ordination

9 There shall be a Board of Co ordination composed of the Vice Chancellor who shall be Chairman thereof the Rector the Deans of the Faculties and the Registrar to co-ordinate the teaching of the University and in particular to co-ordinate the work and time tables of the various Faculties and to assign lecture rooms laboratories and other rooms to the Faculties

10. (*1*) The Dean of each Faculty shall be the executive officer of the Faculty, and shall preside at its meetings. He shall hold office for three years. The Dean.

(*2*) He shall issue the lecture lists of the University in the Departments comprised in the Faculty, and shall be responsible for the conduct of teaching therein.

(*3*) He shall have the right to be present and to speak at any meeting of any committee of the Faculty, but not to vote unless he is a member of the committee.

11. The appointment of a Warden shall in the case of a Hall maintained by the University be made by the Executive Council, and in other cases be subject to the approval of the Executive Council. Warden

12. Every student not residing in a College or Hall shall be attached to a College or Hall for tutorial help and disciplinary supervision and for such other purposes as may be prescribed by the Ordinances. Attachment to Colleges and Halls

13. The Court may, on the recommendation of the Executive Council, by a resolution passed with the concurrence of not less than two-thirds of the members voting withdraw any degree or diploma conferred by the University. Withdrawal of degrees and diplomas

14. (*1*) All proposals for the conferment of honorary degrees shall be made by the Academic Council to the Executive Council, and shall require the assent of the Court before submission to the Chancellor for confirmation: Honorary degrees

Provided that, in cases of urgency, the Chancellor may act on the recommendation of the Executive Council only.

(*2*) Any honorary degree conferred by the University may, with the previous approval of two thirds of the members present at any meeting of the Court and the sanction of the Chancellor, be withdrawn by the Executive Council.

15. The following persons shall, on payment of such fees as may be prescribed by the Statutes, be entitled to have their names enrolled in the register of registered graduates, namely:— Registered graduates.

(*a*) for a period of five years from the commencement of the Act, all graduates of three years' standing or upwards of any other

Indian University incorporated by any law for the time being in force, or of any University in the United Kingdom, who reside or carry on business in the Province of Delhi and apply to the University to be granted *ad eundem* degrees of the University and

(b) all graduates of the University of three years standing and upwards

Officers

16. There shall be the following officers, namely

(i) a Proctor for the maintenance of the general discipline of the University, to whom the Vice Chancellor may delegate such of his disciplinary powers as he may think fit, and

(ii) a Librarian for the University Library

Committees of selection

17 (1) No person shall be appointed or recognized as a teacher of the University except on the nomination of a committee of selection constituted for the purpose as follows namely —

(i) the Vice Chancellor,

(ii) the Rector,

(iii) the Dean of the Faculty concerned,

(iv) two members of the Executive Council selected by the Executive Council,

(v) two members of the Academic Council selected by the Academic Council on the ground of their special knowledge of, or interest in the subject or subjects with which the teacher will be concerned

(vi) a representative of the Governing Body of each College, and

(vii) three persons (two of whom shall not be officers of the University) appointed by the Chancellor

(2) Committees of selection appointed under sub clause (1) shall report to the Executive Council which shall if it accepts the nomination of the committee make the appointment or confer the recognition, as the case may be If the Executive Council does not accept the nomination of the committee it shall refer the case to the Chancellor, who shall appoint or recognize such person as he thinks fit

ACT No. IX OF 1922[1]

[*5th March, 1922*]

An Act further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of compensation in respect of false or vexatious claims or defences in civil suits or proceedings

WHEREAS it is expedient further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908; It is hereby enacted as follows:—

Short title and commencement

1. (*1*) This Act may be called the Civil Procedure (Amendment) Act, 1922.

(*2*) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct that this Act shall come into force throughout the Province or in any part thereof on such [2]date as may be specified in the notification.

Insertion of new section 35A in Act V of 1908

2. In Part I of the Code of Civil Procedure, 1908 (hereinafter referred to as the said Code), after section 35 the following section shall be inserted, namely:—

Compensatory costs in respect of false or vexatious claims or defences

"35A. (*1*) If in any suit or other proceeding, not being an appeal, any party objects to the claim or defence on the ground that the claim or defence or any part of it is, as against the objector, false or vexatious to the knowledge of the party by whom it has been put forward, and if thereafter, as against the objector, such claim or defence is disallowed, abandoned or withdrawn in whole or in part, the Court, if the objection has been taken at the earliest opportunity and if it is satisfied of the justice thereof, may, after recording its reasons for holding such claim or defence to be false or vexatious, make an order for the payment to the objector by the party by whom such claim or defence has been put forward, of costs by way of compensation.

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1 For Statement of Objects and Reasons see Gazette of India, 1922, Pt. V, p. 64; and for Report of Select Committee see *ibid*, 1922, Pt. V, p. 85.

2 This Act was brought into force in—

Bihar and Orissa from 15th November 1922, see B. & O. Gazette, 1922, Pt. II, p. 1062.

Parts of Burma from 15th November 1922, see Bur. Gazette, 1922, Pt. I, p. 1002.

The Central Provinces from 3rd March 1923, see Central Provinces Gazette, 1923, Pt. I, p. 208.

Assam from 16th April 1923, see Assam Gazette, 1923, Pt. II, p. 346.

Bengal Presidency from 1st July 1924, see Calcutta Gazette, 1924, Pt. I, p. 1200.

Indian University incorporated by any law for the time being in force or of any University in the United Kingdom, who reside or carry on business in the Province of Delhi and apply to the University to be granted *ad eundem* degrees of the University and

(*b*) all graduates of the University of three years standing and upwards

Officers

16 There shall be the following officers namely

(i) a Proctor for the maintenance of the general discipline of the University, to whom the Vice Chancellor may delegate such of his disciplinary powers as he may think fit and

(ii) a Librarian for the University Library

Committees of selection

17 (*1*) No person shall be appointed or recognized as a teacher of the University except on the nomination of a committee of selection constituted for the purpose as follows namely —

(i) the Vice Chancellor,

(ii) the Rector,

(iii) the Dean of the Faculty concerned,

(iv) two members of the Executive Council selected by the Executive Council,

(v) two members of the Academic Council selected by the Academic Council on the ground of their special knowledge of, or interest in the subject or subjects with which the teacher will be concerned

(vi) a representative of the Governing Body of each College, and

(vii) three persons (two of whom shall not be officers of the University) appointed by the Chancellor

(*2*) Committees of selection appointed under sub clause (*1*) shall report to the Executive Council which shall if it accepts the nomination of the committee make the appointment or confer the recognition, as the case may be If the Executive Council does not accept the nomination of the committee it shall refer the case to the Chancellor, who shall appoint or recognize such person as he thinks fit

Procedure" the words and figures "clause (*ff*) or clause (*h*) of sub-section *(1) of section 104 of the Code of Civil Procedure, 1908,*" shall be substituted, and after the words "District Court" the following words shall be added, namely:—

"on any ground on which an appeal from such order would lie under that section."

ACT No. X of 1922.[1]

[*5th March, 1922.*]

An Act further to amend the Indian Limitation Act, 1908.

WHEREAS it is expedient further to amend the Indian Limitation Act, 1908; It is hereby enacted as follows:—

1. This Act may be called the Indian Limitation (Amendment) Act, 1922. Short title.

2. In section 5 of the Indian Limitation Act, 1908 (hereinafter referred to as the said Act), for the words "by any enactment or rule" the words "by or under any enactment" shall be substituted. Amendment of section 5, Act IX of 1908.

3. In section 29 of the said Act,— Amendment of section 29, Act IX of 1908.

(*a*) for sub-section (*1*) the following sub-sections shall be substituted, namely:—

"(*1*) Nothing in this Act shall affect section 25 of the Indian Contract Act, 1872. Savings.

(*2*) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed therefor by the first schedule, the provisions of section 3 shall apply, as if such period were prescribed therefor in that schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law—

(*a*) the provisions contained in section 4, sections 9 to 18, and section 22 shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law; and

(*b*) the remaining provisions of this Act shall not apply." and

(*b*) sub-sections (*2*) and (*3*) shall be re-numbered (*3*) and (*4*), respectively.

[1] For Statement of Objects and Reasons *see* Gazette of India Extraordinary, dated 21st February 1921, p. 64; and for Report of Select Committee *see* Gazette of India, 1921, Pt. V, p. 103; and *ibid.* 1922, Pt. V, p. 73.

THE INDIAN INCOME TAX ACT, 1922

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ACT No XI OF 1922 [1]

[*5th March, 1922*]

An Act to consolidate and amend the law relating to Income-tax and Super-tax

WHEREAS it is expedient to consolidate and amend the law relating to Income-tax and Super-tax, It is hereby enacted as follows —

Short title extent and commencement

1. (*1*) This Act may be called the Indian Income-tax Act, 1922

(*2*) It extends to the whole of British India including British Baluchistan and the Sonthal Parganas, and applies also, within the dominions of Princes and Chiefs in India in alliance with His Majesty, to British subjects in those dominions who are in the service of the Government of India or of a local authority established in the exercise of the powers of the Governor General in Council in that behalf, and to all other servants of His Majesty in those dominions

(*3*) It shall come into force on the first day of April, 1922

Definitions

2 In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "agricultural income" means—

(*a*) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land revenue in British India or subject to a local rate assessed and collected by officers of Government as such,

(*b*) any income derived from such land by—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent in kind of any process ordinarily employed by a cultivator or receiver of rent in kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub clause (ii),

1 For Statement of Objects and Reasons *see* Gazette of India 1921, Pt. V, p 159 and for Report of Joint Committee *see ibid* 1922 Pt V p 31

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (ii) and (iii) of clause (b) is carried on

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent in-kind by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building;

(2) " assessee " means a person by whom Income tax is payable,

(3) ' Assistant Commissioner " means a person appointed to be an Assistant Commissioner of Income-tax under section 5,

(4) " business " includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture,

[1][(4A) " the Central Board of Revenue " means the Central Board
1924 of Revenue constituted under the Central Board of Revenue Act, 1924,]

(5) " Commissioner " means a person appointed to be a Commissioner of Income tax under section 5,

(6) company " means a company as defined in the Indian Com-
1913. panies Act, 1913, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in British India whether incorporated or not, and whether its principal place of business is situate in British India or not, which [2][the Central Board of Revenue] may, by general or special order, declare to be a company for the purposes of this Act,

(7) " Income tax Officer means a person appointed to be an Income tax Officer under section 5,

(8) Magistrate means a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by the Local Government to try offences against this Act,

(9) ' person ' includes a Hindu undivided family,

(10) " prescribed " means prescribed by rules made under this Act

1 This clause was inserted by s 4 and Sch of the Central Board of Revenue Act, 1924 (4 of 1924)

2 These words were substituted for the words the Board of Inland Revenue by s 4 and Sch, *ibid*

(11) "previous year" means—

(a) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made or if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have so been made up

Provided that if this option has once been exercised by the assessee it shall not again be exercised so as to vary the meaning of the expression previous year as then applicable to such assessee except with the consent of the Income tax Officer and upon such conditions as he may think fit or

(b) in the case of any person business or company or class of person business or company such period as may be determined by [1][the Central Board of Revenue] or by such authority as the Board may authorise in this behalf

(12) principal officer used with reference to a local authority or a company or any other public body or [2][any] association, means—

(a) the secretary treasurer manager or agent of the authority company body or association, or

(b) any person connected with the authority company body or association upon whom the Income tax Officer has served a notice of his intention of treating him as the principal officer thereof,

(13) public servant has the same meaning as in the Indian Penal Code, XLV o

(14) registered firm means a firm constituted under an instrument of partnership specifying the individual shares of the partners of which the prescribed particulars have been registered with the Income tax Officer in the prescribed manner

(15) total income means total amount of income profits and gains from all sources to which this Act applies computed in the manner laid down in section 16, and

(16) unregistered firm means a firm which is not a registered firm

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[1] These words were substituted for the words the Board of Inland Revenue by s 4 and Sch of the Central Board of Revenue Act 1924 (4 of 1924

[2] This word was inserted by s 2 of the Indian Income tax (Amendment) Act 1924 (11 of 1924)

(*Chapter I —Charge of Income-tax*)

CHAPTER I

CHARGE OF INCOME-TAX

3. Where any Act[1] of the Indian Legislature enacts that income tax shall be charged for any year at any rate or rates applicable to the total income of an assessee, tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act in respect of all income, profits and gains of the previous year of every [2][individual, Hindu undivided family company firm and other association of individuals] **Charge of income tax.**

4. (*1*) Save as hereinafter provided this Act shall apply to all income, profits or gains, as described or comprised in section 6, from whatever source derived, accruing, or arising, or received in British India, or deemed under the provisions of this Act to accrue, or arise, or to be received in British India **Application of Act**

(*2*) Profits and gains of a business accruing or arising without British India to a person resident in British India [3][shall, if they are received in or brought into British India, be deemed to have accrued or arisen in British India and to be profits and gains of the year in which they are so received or brought] notwithstanding the fact that they did not so accrue or arise in that year provided that they are so received or brought in within three years of the end of the year in which they accrued or arose

Explanation —Profits or gains accruing or arising without British India shall not be deemed to be received or brought into British India within the meaning of this sub section by reason only of the fact that they are taken into account in the balance sheet prepared in British India

(*3*) This Act shall not apply to the following classes of income —

(i) Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such

[1] The annual Finance Act fixes the rates at which income tax should be charged for the following year

[2] These words were substituted for the words individual company, firm and Hindu undivided family with effect from 1st April 1923 by ss 3 and 11 of the Indian Income tax (Amendment) Act 1924 (11 of 1924)

[3] These words were substituted for the words shall be deemed to be profits and gains of the year in which they are received or brought into British India" by s 2 of the Indian Income tax (Further Amendment) Act 1923 (27 of 1923)

purposes, the income applied, or finally set apart for application, thereto

(ii) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes

(iii) The income of local authorities

(iv) Interest on securities which are held by, or are the property of, any Provident Fund to which the [1]Provident Funds Act, 1897, applies, * * *[2] IX of 1897

(v) Any capital sum received in commutation of the whole or a portion of a pension, or in the nature of consolidated compensation for death or injuries or in payment of any insurance policy, or as the accumulated balance at the credit of a subscriber to any such Provident Fund

(vi) Any special allowance, benefit or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit

(vii) Any receipts not being receipts arising from business or the exercise of a profession, vocation or occupation which are of a casual and non recurring nature, or are not by way of addition to the remuneration of an employé

(viii) Agricultural income

In this sub section ' charitable purpose includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility

CHAPTER II

INCOME-TAX AUTHORITIES.

Income-tax authorities

5 (*1*) There shall be the following classes of Income tax authorities for the purposes of this Act, namely —

(*a*) [3][The Central Board of Revenue,]

(*b*) Commissioners of Income tax,

[1] *See* now Act XIX of 1925

[2] The words or any Provident Insurance Society to which the Provident Insurance Societies Act 1912 is or but for an exemption under that Act, would be applicable were omitted by s 4 of the Indian Income tax (Amendment) Act 1924 (11 of 1924)

[3] These words were substituted for the words a Board of Inland Revenue" by s 4 and Sch of the Central Board of Revenue Act 1924 (4 of 1924)

(c) Assistant Commissioners of Income tax, and

(d) Income tax Officers

* * * * *1

I of 1922 2 In sub section (3) of section 5 of the Indian Income tax Act, 1922 the words " after consideration of any recommendation made by the Local Government in this behalf " shall be omitted Amendment of sec 5, Act XI of 1922

shall, subject to the control of the Governor General in Council be appointed by the Commissioner of Income tax by order in writing They shall perform their functions in respect of such classes of persons and such classes of income and in respect of such areas as the Commissioner of Income tax may direct The Commissioner may, by general or special order in writing, direct that the powers conferred on the Income-tax Officer and the Assistant Commissioner by or under this Act shall, in respect of any specified case or class of cases, be exercised by the Assistant Commissioner and the Commissioner, respectively, and, for the purposes of any case in respect of which such order applies references in this Act or in any rule made hereunder to the Income tax Officer and the Assistant Commissioner shall be deemed to be references to the Assistant Commissioner and the Commissioner, respectively

(5) [2][The Central Board of Revenue] may by notification[3] in the Gazette of India, appoint Commissioners of Income tax Assistant Commissioners of Income tax and Income tax Officers to perform such functions in respect of such classes of persons or such classes of income, and for such area as may be specified in the notification and thereupon the functions so specified shall cease within the specified area, to be performed in respect of the specified classes of persons or classes of income, by the authorities appointed under sub sections (3) and (4)

(6) Assistant Commissioners of Income tax and Income tax Officers appointed under sub section (4) shall for the purposes of this Act, be subordinate to the Commissioner of Income tax appointed under sub-section (3) for the province in which they perform their functions

1 Sub-section (2) was omitted by s 4 and Sch of the Central Board of Revenue Act, 1924 (4 of 1924)

2 These words were substituted for the words The Board of Inland Revenue by s 4 and Sch *ibid*

3 For such notification see Gen R and O Vol V, p 50

CHAPTER III.

TAXABLE INCOME.

Heads of income chargeable to income-tax

6. Save as otherwise provided by this Act, the following heads of income, profits and gains, shall be chargeable to income-tax in the manner hereinafter appearing, namely:—

(i) Salaries
(ii) Interest on securities
(iii) Property
(iv) Business
(v) Professional earnings
(vi) Other sources

Salaries

7. (*1*) The tax shall be payable by an assessee under the head "Salaries" in respect of any salary or wages, any annuity, pension or gratuity, and any fees, commissions, perquisites or profits received by him in lieu of, or in addition to, any salary or wages, which are paid by or on behalf of Government, a local authority, a company, or any other public body or association, or by or on behalf of any private employer:

Provided that the tax shall not be payable in respect of any sum deducted under the authority of Government from the salary of any individual for the purpose of securing to him a deferred annuity or of making provision for his wife or children, provided that the sum so deducted shall not exceed one-sixth of the salary.

[1][*Explanation*.—The right of a person to occupy free of rent as a place of residence any premises provided by his employer is a perquisite for the purposes of this sub-section.]

(*2*) Any income which would be chargeable under this head if paid in British India shall be deemed to be so chargeable if paid to a British subject or any servant of His Majesty in any part of India by Government or by a local authority established by the Governor General in Council.

Interest on securities

8. The tax shall be payable by an assessee under the head "Interest on securities" in respect of the interest receivable by him on any security of the Government of India or of a Local Government, or on debentures or other securities for money issued by or on behalf of a local authority or a company.

[1] This Explanation was added by s. 2 of the Indian Income-tax (Amendment) Act, 1923 (15 of 1923).

Provided that no income-tax shall be payable on the interest receivable on any security of the Government of India issued or declared to be income-tax free.

Provided, further, that the income-tax payable on the interest receivable on any security of a Local Government issued income-tax free shall be payable by that Local Government

9. (*1*) The tax shall be payable by an assessee under the head "Property" in respect of the *bonâ fide* annual value of property consisting of any buildings or lands appurtenant thereto of which he is the owner, other than such portions of such property as he may occupy for the purposes of his business, subject to the following allowances, namely — Property.

(i) where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one sixth of such value,

(ii) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs the difference between such value and the rent paid by the tenant up to but not exceeding one sixth of such value,

(iii) the amount of any annual premium paid to insure the property against risk of damage or destruction,

(iv) where the property is subject to a mortgage or charge or to a ground rent, the amount of any interest on such mortgage or charge or of any such ground rent,

(v) any sums paid on account of land-revenue in respect of the property,

(vi) in respect of collection charges, a sum not exceeding the prescribed maximum,

(vii) in respect of vacancies, such sum as the Income-tax Officer may determine having regard to the circumstances of the case

Provided that the aggregate of the allowances made under this sub-section shall in no case exceed the annual value

(*2*) For the purposes of this section, the expression "annual value" shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year

Provided that, where the property is in the occupation of the owner for the purposes of his own residence, such sum shall, for the purposes

of this section be deemed not to exceed ten per cent of the total income of the owner

Business **10.** (*1*) The tax shall be payable by an assessee under the head "Business" in respect of the profits or gains of any business carried on by him

(*2*) Such profits or gains shall be computed after making the following allowances, namely —

(i) any rent paid for the premises in which such business is carried on provided that when any substantial part of the premises is used as a dwelling house by the assessee, the allowance under this clause shall be such sum as the Income tax Officer may determine having regard to the proportional part so used,

(ii) in respect of repairs where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof provided that, if any substantial part of the premises is used by the assessee as a dwelling-house a proportional part only of such amount shall be allowed,

(iii) in respect of capital borrowed for the purposes of the business, where the payment of interest thereon is not in any way dependent on the earning of profits the amount of the interest paid,

Explanation —Recurring subscriptions paid periodically by share holders or subscribers in such Mutual Benefit Societies as may be prescribed shall be deemed to be capital borrowed within the meaning of this clause,

(iv) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores, used for the purposes of the business the amount of any premium paid,

(v) in respect of current repairs to such buildings, machinery, plant, or furniture, the amount paid on account thereof,

(vi) in respect of depreciation of such buildings, machinery, plant, or furniture being the property of the assessee, a sum equivalent to such percentage on the original cost thereof to the assessee as may in any case or class of cases be prescribed

(Chapter III ...

2 In sub section (2) of section 10 of the Indian Income tax Act, 1922, after clause (viii), the following clause shall be inserted, namely — Amendment of section 10 Act XI of 1922

1922.

"(viiia) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission

Provided that the amount of the bonus or commission is of a reasonable amount with reference to—

(a) the pay of the employee and the conditions of his service,

(b) the profits of the business for the year in question, and

(c) the general practice in similar businesses,"

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or any Act repealed hereby, or under the Indian Income-tax Act 1886 shall in no case exceed the original cost to the assessee of the buildings machinery plant or furniture as the case may be

(vii) in respect of any machinery or plant which in consequence of its having become obsolete has been sold or discarded the difference between the original cost to the assessee of the machinery or plant as reduced by the aggregate of the

1 (1) This Act may be called the Indian Income tax (Amendment) Act, 1928 Short title and commencement

(2) It shall come into force on the 1st day of April, 1928

2 In sub section (2) of section 10 of the Indian Income tax Act, 1922 (hereinafter referred to as the said Act),— Amendment of section 10 Act XI of 1922.

1922.

(a) after clause (vii) the following clause shall be inserted, namely —

(b) after clause (ix) the following proviso shall be inserted, namely —

"Provided that nothing in clause (viii) or clause (ix) shall be deemed to authorise the allowance of any sum paid on account of any cess, rate or tax levied on the profits or gains of any business or assessed at a proportion of or otherwise on the basis of any such profits or gains"

fessional earnings ... profession ... or vocation followed by him

(2) Such profits or gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purposes of such profession or vocation: provided that no allowance shall be made on account of any personal expenses of the assessee.

(3) Professional fees paid in any part of India to a person ordinarily resident in British India shall be deemed to be profits or gains chargeable under this head.

Other sources.

12. (1) The tax shall be payable by an assessee under the head "Other sources" in respect of income, profits and gains of every kind and from every source to which this Act applies (if not included under any of the preceding heads).

(2) Such income, profits and gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making or earning such income, profits or gains: provided that no allowance shall be made on account of any personal expenses of the assessee.

Method of accounting.

13. Income, profits and gains shall be computed for the purposes of sections 10, 11 and 12 in accordance with the method of accounting regularly employed by the assessee:

Provided that, if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine.

Exemptions of a general nature.

14. (1) The tax shall not be payable by an assessee in respect of any sum which he receives as a member of a Hindu undivided family.

(2) The tax shall not be payable by an assessee in respect of—

(a) any sum which he receives by way of dividend as a shareholder in a company where the profits or gains of the company have been assessed to income-tax; or

(b) such an amount of the profits or gains of any firm which have been assessed to income-tax as is proportionate to his share in the firm at the time of such assessment.

Exemption in the case of life insurance.

15. (1) The tax shall not be payable by an assessee in respect of any sums paid by him to effect an insurance on his own life or on the life of his wife, or in respect of a contract for a deferred annuity on his own

on the amount payable at the rate applicable to the estimated income of the assessee under this head

Provided that such person may, at the time of making any deduction, increase or reduce the amount to be deducted under this sub section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct

[1][(2A) Notwithstanding anything hereinbefore contained for the purpose of making the deduction under sub section (2) there shall be included in the amount payable any income chargeable under the head 'Salaries' which is payable to the assessee out of India by or on behalf of Government and the value in rupees of such income shall be calculated at the prescribed rate of exchange]

(3) The person responsible for paying any income chargeable under the head Interest on securities shall at the time of payment deduct income tax on the amount of the interest payable at the maximum rate

(4) All sums deducted in accordance with the provisions of this section shall, for the purpose of computing the income of an assessee, be deemed to be income received

(5) Any deduction made in accordance with the provisions of this section shall be treated as a payment of income tax on behalf of the person from whose income the deduction was made, or of the owner of the security, as the case may be and credit shall be given to him therefor *in the assessment if any, made for the following year under* this Act

Provided that if such person or such owner obtains in accordance with the provisions of this Act, a refund of any portion of the tax so deducted no credit shall be given for the amount of such refund

(6) All sums deducted in accordance with the provisions of this section shall be paid within the prescribed time by the person making the deduction to the credit of the Government of India or as [2][the Central Board of Revenue] directs

(7) If any such person does not deduct and pay the tax as required by this section he shall without prejudice to any other consequences which he may incur be deemed to be personally in default in respect of the tax

[1] This sub section was inserted by s 2 of the Indian Income tax (Second Amendment) Act 1925 (16 of 1925)

[2] These words were substituted for the words the Board of Inland Revenue by s. 4 and Sch of the Central Board of Revenue Act 1924 (4 of 1924)

(Chapter IV.—Deductions and Assessment.)

(8) The power to levy by deduction under this section shall be without prejudice to any other mode of recovery.

(9) Every person deducting income-tax in accordance with the provisions of sub-section (3) shall, at the time of payment of interest, furnish to the person to whom the interest is paid a certificate to the effect that income-tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted and such other particulars as may be prescribed.

19. In the case of income chargeable under any other head than those mentioned in sub-section (*1*) of section 18, and in any case where income-tax has not been deducted in accordance with the provisions of that section, the tax shall be payable by the assessee direct. **Payment in other cases.**

[1][**19A.** The principal officer of every company shall, on or before the 15th day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each such shareholder.] **Supply of information regarding dividends.**

20. The principal officer of every company shall at the time of distribution of dividends furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay income-tax on the profits which are being distributed and specifying such other particulars as may be prescribed. **Certificate by company to shareholders receiving dividends.**

21. The prescribed person in the case of every Government office, and the principal officer or the prescribed person in the case of every local authority, company or other public body or association and every private employer shall prepare and within thirty days from the 31st day of March in each year deliver or cause to be delivered to the Income-tax Officer in the prescribed form a return in writing showing— **Annual return.**

(*a*) the name and, so far as it is known, the address, of every person who was receiving on the said 31st day of March, or has received during the year ending on that date from the authority, company, body, association or private employer, as the case may be, any income chargeable under the head "Salaries" of such amount as may be prescribed,

[1] This section was inserted by s. 2 of the Indian Income-tax (Amendment) Act, 1926 (24 of 1926).

(*b*) the amount of the income so received by each such person, and the time or times at which the same was paid,

(*c*) the amount deducted in respect of income tax from the income of each such person

Return of income

22 (*1*) The principal officer of every company shall prepare and, on or before the fifteenth day of June in each year furnish to the Income tax Officer a return in the prescribed form and verified in the prescribed manner, of the total income of the company during the previous year

Provided that the Income tax Officer may, in his discretion extend the date for the delivery of the return in the case of any company or class of companies

(*2*) In the case of any person other than a company whose total income is in the Income tax Officer s opinion, of such an amount as to render such person liable to income tax, the Income tax Officer shall serve a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income during the previous year

(*3*) If any person has not furnished a return within the time allowed by or under sub section (*1*) or sub section (*2*), or having furnished a return under either of those sub sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be at any time before the assessment is made, and any return so made shall be deemed to be a return made in due time under this section

(*4*) The Income tax Officer may serve on the principal officer of any company or on any person upon whom a notice has been served under sub section (*2*) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents as the Income tax Officer may require

Provided that the Income tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year

Assessment

23 (*1*) If the Income tax Officer is satisfied that a return made under section 22 is correct and complete, he shall assess the total income of the assessee and shall determine the sum payable by him on the basis of such return

(Chapter IV —Deductions and Assessment)

(2) If the Income tax Officer has reason to believe that a return made under section 22 is incorrect or incomplete he shall serve on the person who made the return a notice requiring him, on a date to be therein specified either to attend at the Income tax Officer's office or to produce or to cause to be there produced any evidence on which such person may rely in support of the return

(3) On the day specified in the notice issued under sub section (2), or as soon afterwards as may be the Income tax Officer after hearing such evidence as such person may produce and such other evidence as the Income tax Officer may require on specified points shall by an order in writing assess the total income of the assessee and determine the sum payable by him on the basis of such assessment

(4) If the principal officer of any company or any other person fails to make a return under sub section (1) or sub section (2) of section 22 as the case may be or fails to comply with all the terms of a notice issued under sub section (4) of the same section or having made a return fails to comply with all the terms of a notice issued under sub section (2) of this section the Income tax Officer shall make the assessment to the best of his judgment

Set off of loss in computing aggregate income

24 (1) Where any assessee sustains a loss of profits or gains in any year under any of the heads mentioned in section 6 he shall be entitled to have the amount of the loss set off against his income profits or gains under any other head in that year

(2) Where the assessee is a registered firm and the loss sustained cannot wholly be set off under sub section (1) any member of such firm shall be entitled to have set off against any income profits or gains of the year in which the loss was sustained in respect of which the tax is payable by him such amount of the loss not already set off as is proportionate to his share in the firm

Assessment in case of discontinued business

25 (1) Where any business profession or vocation [1][on which income tax was not at any time charged under the provisions of the Indian Income tax Act 1918] is discontinued in any year an assessment may be made in that year on the basis of the income profits or gains of the period between the end of the previous year and the date of such discontinuance in addition to the assessment if any made on the basis of the income profits or gains of the previous year

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[1] These words were substituted for the words and figures "commenced after the 31st day of March 1922" by s 6 of the Indian Income tax (Amendment) Act 1924 (11 of 1924)

(Chapter IV.—Deductions and Assessment.)

(2) Any person discontinuing any such business, profession or vocation shall give to the Income tax Officer notice of such discontinuance within fifteen days thereof, and, where any person fails to give the notice required by this sub section, the Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income profits or gains of the business profession or vocation up to the date of its discontinuance.

(3) Where any business profession or vocation * * *[1] on which tax was at any time charged under the provisions of the Indian Income tax Act 1918, is discontinued, no tax shall be payable in respect of the income profits and gains of the period between the end of the previous year and the date of such discontinuance and the assessee may further claim that the income profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made an assessment shall be made on the basis of the income profits and gains of the said period and if an amount of tax has already been paid in respect of the income profits and gains of the previous year exceeding the amount payable on the basis of such assessment a refund shall be given of the difference.

(4) Where an assessment is to be made under sub section (1) or sub-section (3) the Income tax Officer may serve on the person whose income, profits and gains are to be assessed, or in the case of a firm on any person who was a member of such firm at the time of its discontinuance or in the case of a company on the principal officer thereof a notice containing all or any of the requirements which may be included in a notice under sub section (2) of section 22 and the provisions of this Act shall so far as may be apply accordingly as if the notice were a notice issued under that sub section.

III 1928

Change in ownership of business.

Substituted III 1928

25A

26. Where any change occurs in the constitution of a firm or where any person has succeeded to any business profession or vocation the assessment shall be made on the firm as constituted or on the person engaged in the business profession or vocation as the case may be at the time of the making of the assessment.

Cancellation of assessment when cause is shown.

27. Where an assessee or in the case of a company the principal officer thereof within one month from the service of a notice of demand issued as hereinafter provided satisfies the Income tax Officer that he

[1] The words "which was in existence at the commencement of this Act and" were omitted by s. 6 of the Indian Income tax (Amendment) Act 1924 (11 of 1924).

1928.] *Indian Income-tax (Amendment).*

as it is constituted at the time of making the assessment, and as if each member had received a share of the profits of that year proportionate to his interest in the firm at the time of making the assessment.

Change of ownership of business.

(2) Where, at the time of making an assessment under section 23, it is found that the person carrying on any business, profession or vocation has been succeeded in such capacity by another person, the assessment shall be made on such person succeeding, as if he had been carrying on the business, profession or vocation throughout the previous year, and as if he had received the whole of the profits for that year."

unless the assessee has been heard or has been given a reasonable opportunity of being heard

Provided, further, that no prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section

(2) An Assistant Commissioner or a Commissioner who has made an order under sub-section *(1)* shall forthwith send a copy of the same to the Income-tax Officer

Notice of demand.

29. When the Income-tax Officer has determined a sum to be payable by an assessee under section 23, or when an order has been passed under sub-section (2) of section 25 or section 28 for the payment of a penalty, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable

Appeal against assessment under this Act

30. (*1*) Any assessee objecting to the amount or rate at which he is assessed under section 23 or section 27, or denying his liability to be assessed under this Act or objecting to a refusal of an Income-tax Officer to make a fresh assessment under section 27, or to any order against him under sub-section (2) of section 25 or section 28, made by an Income-tax Officer, may appeal to the Assistant Commissioner against the assessment or against such refusal or order.

Insertion of new section 25A in Act XI of 1922.

4 After section 25 of the said Act the following section shall be inserted, namely —

Assessment after partition of a Hindu undivided family

"25A (1) Where, at the time of making an assessment under section 23, it is claimed by or on behalf of any member of a Hindu family hitherto undivided that a partition has taken place among the members of such family, the Income tax Officer shall make such inquiry thereinto as he may think fit and, if he is satisfied that a separation of the members of the family has taken place and that the joint family property has been partitioned among the various members or groups of members in definite portions before the end of the previous year he shall record an order to that effect

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family

(2) Where such an order has been passed, the Income tax Officer shall make an assessment of the total income received by or on behalf of the joint family as such as if no separation or partition had taken place, and each member or group of members shall, in addition to any income tax for which he or it may be separately liable and notwithstanding anything contained in sub section (1) of section 14, be liable for a share of the tax on the income so assessed according to the portion of the joint family property allotted to him or it,

and the Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 23

Provided that all the separated members and groups of members shall be liable jointly and severally for the tax assessed on the total income received by or on behalf of the joint family as such

Amendment of section 26 Act XI of 1922.

5 For section 26 of the said Act the following section shall be substituted, namely —

Change in constitution of a firm.

"26 (1) Where, at the time of making an assessment under section 23 it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessments on the firm and on the members thereof shall, subject to the provisions of this Act, be made as if the firm had been constituted throughout the previous year

was prevented by sufficient cause from making the return required by section 22 or that he did not receive the notice issued under sub section (4) of section 22, or sub section (2) of section 23 or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying with the terms of the last mentioned notices, the Income tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 23

Penalty for concealment of income

28 (1) If the Income tax Officer the Assistant Commissioner or the Commissioner in the course of any proceedings under this Act is satisfied that an assessee has concealed the particulars of his income, or has deliberately furnished inaccurate particulars of such income and has thereby returned it below its real amount he may direct that the assessee shall in addition to the income tax payable by him pay by way of penalty a sum not exceeding the amount of income tax which would have been avoided if the income so returned by the assessee had been accepted as the correct income

Provided that no such order shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard

Provided further that no prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section

(2) An Assistant Commissioner or a Commissioner who has made an order under sub section (1) shall forthwith send a copy of the same to the Income tax Officer

Notice of demand

29 When the Income tax Officer has determined a sum to be payable by an assessee under section 23 or when an order has been passed under sub section (2) of section 25 or section 28 for the payment of a penalty the Income tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable

Appeal against assessment under this Act

30 (1) Any assessee objecting to the amount or rate at which he is assessed under section 23 *or section 27 or denying his liability to be* assessed under this Act or objecting to a refusal of an Income tax Officer to make a fresh assessment under section 27 or to any order against him under sub section (2) of section 25 or section 28 made by an Income tax Officer may appeal to the Assistant Commissioner against the assessment or against such refusal or order

Provided that no appeal shall lie in respect of an assessment made under sub section (4) of section 23 or under that sub section read with section 27

(2) The appeal shall ordinarily be presented within thirty days of receipt of the notice of demand relating to the assessment or penalty objected to or of the date of the refusal to make a fresh assessment under section 27 as the case may be, but the Assistant Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner

Hearing of appeal

31 (*1*) The Assistant Commissioner shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing

(*2*) The Assistant Commissioner may before disposing of any appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Income tax Officer

(3) In disposing of an appeal the Assistant Commissioner may in the case of an order of assessment,—

(*a*) confirm reduce enhance or annul the assessment or

(*b*) set aside the assessment and direct the Income tax Officer to make a fresh assessment after making such further inquiry as the Income tax Officer thinks fit or the Assistant Commissioner may direct and the Income tax Officer shall thereupon proceed to make such fresh assessment

or in the cases of an order under sub section (2) of section 25 or section 28

(*c*) confirm cancel or vary such order

Provided that the Assistant Commissioner shall not enhance an assessment unless the appellant has had a reasonable opportunity of showing cause against such enhancement

Appeals against orders of Assistant Commissioner

32 (*1*) Any assessee objecting to an order passed by an Assistant Commissioner under section 28 or to an order enhancing his assessment under sub section (3) of section 31 may appeal to the Commissioner within thirty days of the making of such order

(*2*) The appeal shall be in the prescribed form and shall be verified in the prescribed manner

(*Chapter IV —Deductions and Assessment*)

(3) In disposing of the appeal the Commissioner may, after giving the appellant an opportunity of being heard, pass such orders thereon as he thinks fit

33 (1) The Commissioner may of his own motion call for the record or any proceeding under this Act which has been taken by any authority subordinate to him or by himself when exercising the powers of an Assistant Commissioner under sub section (4) of section 5 **Power of revision.**

(2) On receipt of the record the Commissioner may make such inquiry or cause such inquiry to be made and subject to the provisions of this Act may pass such orders thereon as he thinks fit

Provided that he shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard

34 If for any reason income, profits or gains chargeable to income-tax has escaped assessment in any year or has been assessed at too low a rate the Income tax Officer may at any time within one year of the end of that year serve on the person liable to pay tax on such income profits or gains or in the case of a company, on the principal officer thereof a notice containing all or any of the requirements which may be included in a notice under sub section (2) of section 22 and may proceed to assess or re assess such income profits or gains, and the provisions of this Act shall so far as may be, apply accordingly as if the notice were a notice issued under that sub section **Income escaping assessment.**

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8. In sub-section (1) of section 35 of the said Act,— **Amendment of section 35 Act XI of 1922**

(a) before the words "The Income-tax Officer may" the following words shall be inserted, namely —

"The Commissioner or Assistant Commissioner may, at any time within one year from the date of any order passed by him in appeal or, in the case of the Commissioner, in revision under section 33 and",

(b) for the words "of the assessment" the words "of the appeal, revision or assessment, as the case may be," shall be substituted,

(c) for the words "such assessee" the words "the assessee" shall be substituted, and

(d) in the proviso, for the words "the Income-tax Officer" the words "the Commissioner, the Assistant Commissioner or the Income tax Officer, as the case may be," shall be substituted

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(3) Where any such rectification has the effect of enhancing the assessment the Income tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 29 and the provisions of this Act shall apply accordingly

Tax to be calculated to nearest anna

36 In the determination of the amount of tax or of a refund payable under this Act fractions of an anna less than six pies shall be disregarded and fractions of an anna equal to or exceeding six pies shall be regarded as one anna

Power to take evidence on oath, etc

37. The Income tax Officer, Assistant Commissioner and Commissioner shall for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters namely — V of 1908

(a) enforcing the attendance of any person and examining him on oath or affirmation

(b) compelling the production of documents and

(c) issuing commissions for the examination of witnesses

and any proceeding before an Income tax Officer Assistant Commissioner or Commissioner under this Chapter shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code XLV of 1860

Power to call for information

38 The Income tax Officer or Assistant Commissioner may for the purposes of this Act —

(1) require any firm or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family as the case may be and of their addresses

(2) require any person whom he has reason to believe to be a trustee guardian or agent to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent and of their addresses

Power to inspect the register of members of any company

39 The Income tax Officer or Assistant Commissioner, or any person authorised in writing in this behalf by the Income tax Officer or Assistant Commissioner may inspect and if necessary take copies or cause copies to be taken of any register of the members debenture holders or mortgagees of any company or of any entry in such register

CHAPTER V.

LIABILITY IN SPECIAL CASES.

40. In the case of any guardian, trustee or agent of any person being a minor, lunatic or idiot or residing out of British India (all of which persons are hereinafter in this section included in the term beneficiary) being in receipt on behalf of such beneficiary of any income, profits or gains chargeable under this Act, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age, sound mind, or resident in British India and in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly. Guardians, trustees and agents.

41. In the case of income, profits or gains chargeable under this Act which are received by the Courts of Wards, the Administrators General, the Official Trustees or by any receiver or manager (including any person whatever his designation who in fact manages property on behalf of another) appointed by or under any order of a court, the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager in the like manner and to the same amount as it would be leviable upon and recoverable from any person on whose behalf such income, profits or gains are received, and all the provisions of this Act shall apply accordingly. Courts of Wards, etc.

42. (*1*) In the case of any person residing out of British India, all profits or gains accruing or arising to such person whether directly or indirectly through or from any business connection or Non residents.

7. In *section 42* of the said Act, the following sub-section shall be added, namely:— Amendment of section 42 Act XI of 1922.

"(*3*) Where any profits or gains have accrued or arisen to any person directly or indirectly from the sale in British India by him or by any agency or branch on his behalf of any merchandise exported to British India by him or any agency or branch on his behalf from any place outside British India, the profits or gains shall be deemed to have accrued and arisen and to have been received in British India, and no allowance shall be made under sub-section (*2*) of section 10 in respect of any buying or other commission whatsoever not actually paid, or of any other amounts not actually spent, for the purpose of earning such profits or gains."

connection between the resident and the non-resident person and to the substantial control exercised by the non-resident over the resident, the course of business between those persons is so arranged, that the business done by the resident in pursuance of his connection with the non-resident produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived therefrom shall be chargeable to income-tax in the name of the resident person who shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax.

Agent to include persons treated as such.

43. Any person employed by or on behalf of a person residing out of British India, or having any business connection with such person, or through whom such person is in the receipt of any income, profits or gains upon whom the Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for all the purposes of this Act, be deemed to be such agent:

Provided that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Income-tax Officer as to his liability.

Liability in case of a discontinued firm or partnership.

44. Where any business, profession or vocation carried on by a firm has been discontinued, every person who was, at the time of such discontinuance, a member of such firm shall be jointly and severally liable for the amount of the tax payable in respect of the income, profits and gains of the firm.

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[1]CHAPTER VA.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPPING.

Liability to tax of occasional shipping.

44A. The provisions of this Chapter shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of British India and carries on business in British India in any year as the owner or charterer of a ship (such person hereinafter in this Chapter being referred to as the principal), unless the Income-tax Officer is satisfied that there is an agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act.

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[1] Chapter VA was inserted by s. 3 of the Indian Income-tax (Further Amendment) Act, 1923 (27 of 1923).

Return of profits and gains.

44B. (*1*) Before the departure from any port in British India of any ship in respect of which the provisions of this Chapter apply, the master of the ship shall prepare and furnish to the Income tax Officer a return of the full amount paid or payable to the principal, or to any person on his behalf on account of the carriage of all passengers, live stock or goods shipped at that port since the last arrival of the ship thereat.

(*2*) On receipt of the return the Income tax Officer shall assess the amount referred to in sub section (*1*), and for this purpose may call for such accounts or documents as he may require, and one twentieth of the amount so assessed shall be deemed to be the amount of the profits and gains accruing to the principal on account of the carriage of the passengers, live stock and goods shipped at the port.

(*3*) When the profits and gains have been assessed as aforesaid, the Income tax Officer shall determine the sum payable as tax thereon at the rate for the time being applicable to the total income of a company, and such sum shall be payable by the master of the ship, and a port-clearance shall not be granted to the ship until the Customs collector, or other officer duly authorised to grant the same, is satisfied that the tax has been duly paid.

Adjustment.

44C. Nothing in this Chapter shall be deemed to prevent a principal from claiming, in any year following that in which any payment has been made on his behalf under this Chapter, that an assessment be made of his total income in the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and, if he so claims any such payment as aforesaid shall be treated as a payment in advance of the tax and the difference between the sum so paid, and the amount of tax found payable by him shall be paid by him or refunded to him as the case may be.]

CHAPTER VI

Recovery of Tax and Penalties

Tax when payable.

45. Any amount specified as payable in a notice of demand under section 29 or an order under section 31 or section 32 or section 33, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be

in default, provided that, when an assessee has presented an appeal under section 30, the Income-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of.

Mode and time of recovery.

46. (*1*) When an assessee is in default in making a payment of income-tax, the Income-tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amo shall be recovered from the assessee by way of penalty.

(*2*) The Income-tax Officer may forward to the Collector a certifi under his signature specifying the amount of arrears due from assessee, and the Collector, on receipt of such certificate shall proc to recover from such assessee the amount specified therein as if it w an arrear of land-revenue.

(*3*) In any area with respect to which the Commissioner has direc that any arrears may be recovered by any process enforceable for recovery of an arrear of any municipal tax or local rate imposed und any enactment for the time being in force in any part of the province, the Income-tax Officer may proceed to recover the amount due by such process.

(*4*) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (*3*).

(*5*) If any assessee is in receipt of any income chargeable under the head "Salaries," the Income-tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears due from such assessee, and such person shall comply with any such requisition, and shall pay the sums so deducted to the credit of the Government of India, or as [1][the Central Board of Revenue] directs.

(*6*) The Local Government may direct, with respect to any specified area, that income-tax shall be recovered therein, with, and as an addition to, any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recovered.

(*7*) Save in accordance with the provisions of sub-section (*1*) of section 42, no proceedings for the recovery of any sum payable under this

[1] These words were substituted for the words "the Board of Inland Revenue" by s. 4 and Sch. of the Central Board of Revenue Act, 1924 (4 of 1924).

(Chapter VI —Recovery of Tax and Penalties Chapter VII —Refunds)

Act shall be commenced after the expiration of one year from the last day of the year in which any demand is made under this Act

47 Any sum imposed by way of penalty under the provisions of sub section (2) of section 25 section 28 or sub section (1) of section 46, shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax **Recovery of penalties**

CHAPTER VII

Refunds.

48 (1) If a shareholder in a company who has received any dividend therefrom satisfies the Income tax Officer that the rate of income tax applicable to the profits or gains of the company at the time of the declaration of such dividend is greater than the rate applicable to his total income of the year in which such dividend was declared he shall on production of the certificate received by him under the provisions of section 20 be entitled to a refund on the amount of such dividend (including the amount of the tax thereon) calculated at the difference between those rates **Refunds**

(2) If a member of a registered firm satisfies the Income tax Officer that the rate of income tax applicable to his total income of the previous year was less than the rate at which income tax has been levied on the profits or gains of the firm of that year he shall be entitled to a refund on his share of those profits or gains calculated at the difference between those rates

(3) If the owner of a security from the interest on which or any

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iment of s 48 I of 9 In section 48 of the said Act, the following sub sections shall be added, namely —

"(4) For the purposes of this section, 'total income' includes, in the case of any person not resident in British India, all income, profits and gains wherever arising, accruing or received, which, if arising, accruing or received in British India, would be included in the computation of total income under section 16

(5) Nothing in this section shall entitle to any refund any person not resident in British India who is neither a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914, nor a subject of a State in India" **4 & 5 Geo. 5 c. 17**

27 of the Finance Act, 1920, is less than the Indian rate of tax charged in respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Indian rate of tax and the rate at which he was entitled to and obtained relief under that section: 10 & 11 Geo. V, Ch. 18

Provided that the rate at which the refund is to be given shall not exceed one half of the Indian rate of tax.

(2) In sub-section (1)—

(a) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of this Act;

(b) the expression "Indian rate of tax" means the amount of the Indian income-tax divided by the income on which it was charged;

(c) the expression "United Kingdom income-tax" means income-tax and super-tax chargeable in accordance with the provisions of the Income-tax Acts.

Limitation of claims for refund.

50. No claim to any refund of income-tax under this Chapter shall be allowed, unless it is made within one year from the last day of the year in which the tax was recovered.

CHAPTER VIII

OFFENCES AND PENALTIES

Failure to make payments or deliver returns or statements or allow inspection.

51. If a person fails without reasonable cause or excuse—

(a) to deduct and pay any tax as required by section 18 or under sub-section (1) of section 19,

(b) to furnish a certificate required by sub-section (9) of section 18 or by section 20 to be furnished,

(c) to furnish in due time any of the returns mentioned in [1][section 19A,] section 21, section 22, or section 38,

(d) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (4) of section 22, such accounts and documents as are referred to in the notice,

(e) to grant inspection or allow copies to be taken in accordance with the provisions of section 59,

1 The words [illegible] were inserted by s. 3 of the Indian Income-tax (Amendment) Act, [illegible]

(Chapter VIII.—Offences and Penalties.)

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

False statement in declaration

52. If a person makes a statement in a verification mentioned in [1][section 19A or] section 22, or sub-section (3) of section 30, or sub-section (2) of section 32 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code

Prosecution to be at instance of Assistant Commissioner

53 (1) A person shall not be proceeded against for an offence under section 51 or section 52 except at the instance of the Assistant Commissioner

(2) The Assistant Commissioner may stay any such proceeding or compound any such offence

Disclosure of information by a public servant

54. (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding any-
2 thing contained in the Indian Evidence Act, 1872, no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine

Provided that nothing in this section shall apply to the disclosure—

(a) of any such particulars for the purposes of a prosecution
f under section 193 of the Indian Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act, or

(b) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act, or

[1] These words and figures were inserted by s 4 of the Indian Income tax (Amendment) Act, 1926 (24 of 1926)

(c) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or

(d) of such facts, to an authorised officer of the United Kingdom, as may be necessary to enable relief to be given under section 27 of the Finance Act, 1920, or a refund to be given under section 49 of this Act 10 & Ch

Provided, further, that no prosecution shall be instituted under this section except with the previous sanction of the Commissioner

CHAPTER IX

SUPER-TAX

Charge of super tax

55 In addition to the income tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income of the previous year of any [1][individual, Hindu undivided family, company, unregistered firm or other association of individuals, not being a registered firm] an additional duty of income tax (in this Act referred to as super tax) at the rate or rates laid down for that year by Act[2] of the Indian Legislature

Provided that where the profits and gains of an unregistered firm have been assessed to super tax super tax shall not be payable by an individual having a share in the firm in respect of the amount of such profits and gains which is proportionate to his share

Total income for purposes of super tax.

56. Subject to the provisions of this Chapter the total income of any [individual Hindu undivided family company unregistered firm or other association of individuals][3] shall, for the purposes of super tax be the total income as assessed for the purposes of income tax, and where an assessment of total income has become final and conclusive for the purposes of income tax for any year the assessment shall also be final and conclusive for the purposes of super tax for the same year

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[1] These words were substituted for the words individual unregistered firm Hindu undivided family or company with effect from 1st April 1923 by ss 7 and 11 of the Indian Income tax (Amendment) Act 1924 (11 of 1924)

[2] The annual Finance Act fixes the rates at which super tax should be charged for the following year

[3] These words were substituted for the words individual, unregistered firm, Hindu undivided family or company by ss 8 and 11 of the Indian Income tax (Amendment) Act 1924 (11 of 1924) with effect from 1st April 1923

(c) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or

(d) of such facts, to an authorised officer of the United Kingdom, as may be necessary to enable relief to be given under ... 27 of the Finance Act 1920, or a refund to be 10 & 11 Geo.

PART II

Rates of Super tax

In respect of the excess over fifty thousand rupees of total income—

	Rate
(1) in the case of every company	One anna in the rupee
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first twenty five thousand rupees of the excess	Nil
(ii) for every rupee of the next twenty five thousand rupees of such excess	One anna in the rupee
(b) in the case of every individual unregistered firm and other association of individuals not being a registered firm or a company for every rupee of the first fifty thousand rupees of such excess	One anna in the rupee.
(c) in the case of every individual Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the second fifty thousand rupees of such excess	One and a half annas in the rupee
(ii) for every rupee of the next fifty thousand rupees of such excess	Two annas in the rupee
(iii) for every rupee of the next fifty thousand rupees of such excess	Two and a half annas in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess	Three annas in the rupee
(v) for every rupee of the next fifty thousand rupees of such excess	Three and a half annas in the rupee
(vi) for every rupee of the next fifty thousand rupees of such excess	Four annas in the rupee
(vii) for every rupee of the next fifty thousand rupees of such excess	Four and a half annas in the rupee
(viii) for every rupee of the next fifty thousand rupees of such excess	Five annas in the rupee
(ix) for every rupee of the next fifty thousand rupees of such excess	Five and a half annas in the rupee
(x) for every rupee of the remainder of the excess	Six annas in the rupee

(c) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or

Income-tax and super tax. 5. (*1*) Income-tax for the year beginning on the 1st day of April, 1929, shall be charged at the rates specified in Part I of the Second Schedule

(*2*) The rates of super-tax for the year beginning on the 1st day of April, 1929, shall, for the purposes of section 55 of the Indian Income tax Act, 1922, be those specified in Part II of the Second Schedule XI of 1

(*3*) For the purposes of the Second Schedule, "total income" means total income as determined, for the purposes of income tax or super tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922 XI of 1

SCHEDULE II.

[*See section 5*]

Part I

Rates of Income-tax

	Rate
A In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(1) When the total income is less than Rs 2 000	*Nil*
(2) When the total income is Rs 2 000 or upwards, but is less than Rs 5,000	Five pies in the rupee
(3) When the total income is Rs 5 000 or upwards, but is less than Rs 10 000	Six pies in the rupee
(4) When the total income is Rs 10 000 or upwards, but is less than Rs 20 000	Nine pies in the rupee
(5) When the total income is Rs 20,000 or upwards, but is less than Rs 30,000	One anna in the rupee.
(6) When the total income is Rs 30 000 or upwards, but is less than Rs 40 000	One anna and three pies in the rupee
(7) When the total income is Rs 40 000 or upwards	One anna and six pies in the rupee
B In the case of every company and registered firm whatever its total income	One anna and six pies in the rupee

Part II.

(Chapter IX.—Super-tax.)

[1][Provided that, in computing the total income of a member of a registered firm, where any change occurs in the constitution of the firm, the profits or gains of the firm during the previous year shall be deemed to have been received in that year by the members of the firm as constituted at the time of the making of the assessment to super-tax in proportion to their shares in the firm at that time.]

Non resident partners and shareholders

57. (*1*) In the case of any [2][person] residing out of British India who is a member of a registered firm, and whose share of the profits from such firm is liable to super-tax, the remaining members of such firm who are resident in British India shall be jointly and severally liable to pay the super-tax due from the non resident member in respect of such share

[3][(*2*) Where the Income-tax Officer has reason to believe that any person, who is a shareholder in a company, is resident out of British India and that the total income of such person will in any year exceed the maximum amount which is not chargeable to super tax under the law for the time being in force, he may, by order in writing, require the principal officer of the company to deduct at the time of payment of any dividend from the company to the shareholder in that year super-tax at such rate as the Income tax Officer may determine as being the rate applicable in respect of the income of the shareholder in that year

(*3*) If in any year the amount of any dividend or the aggregate amount of any dividends paid to any shareholder by a company (together with the amount of any income-tax payable by the company in respect thereof) exceeds the maximum amount of the total income of a person which is not chargeable to super-tax under the law for the time being in force, and the principal officer of the company has not reason to believe that the shareholder is resident in British India and no order under sub section (*2*) has been received in respect of such shareholder by the principal officer from the Income-tax Officer, the principal officer shall at the time of payment deduct super-tax on the amount of such excess at the rate which would be applicable under the law for the time being in force if the amount of such dividend or dividends (together with the amount of such income tax as aforesaid) constituted the whole total income of the shareholder]

1 This proviso was added by s 2 of the Indian Income tax (Amendment) Act, 1925 (5 of 1925)

2 This word was substituted for the word 'assessee' by s 5 of the Indian Income tax (Amendment) Act, 1926 (24 of 1926)

3 Sub sections (*2*) and (*3*) were substituted for the original sub section (*2*) *ibid*

[1][(4)] Where any person pays any tax under the provisions of this section on account of [1][another person] who is residing out of British India, credit shall be given therefor in determining the amount of the tax to be payable by any agent of such non resident [1][person] under the provisions of sections 42 and 43

Application of Act to super tax

58. (1) All the provisions of this Act, except section 3, the proviso to sub section (1) of section 7, the provisos to section 8, sub section (2) of section 14, and sections 15, 17, 18, 19, 20, 21 and 48 shall apply, so far as may be, to the charge, assessment, collection and recovery of super-tax

[2][Provided that sub sections (4) to (9) of section 18 shall apply, so far as may be, to the assessment, collection and recovery of super-tax under sub section (2) or sub section (3) of section 57]

(2) Save as provided in section 57, super tax shall be payable by the assessee direct

Chapter IX-A

CHAPTER X

MISCELLANEOUS

Power to make rules.

59. (1) [3][The Central Board of Revenue] may, subject to the control of the Governor General in Council, make rules[4] for carrying out the purposes of this Act and for the ascertainment and determination of any class of income Such rules may be made for the whole of British India or for such part thereof as may be specified

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the manner in which, and the procedure by which, the income, profits and gains shall be arrived at in the case of—

(i) incomes derived in part from agriculture and in part from business,

(ii) insurance companies,

(iii) persons residing out of British India,

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[1] Original sub-section (3) was re numbered (4) and the words 'another person" and 'person" were substituted for the words "an assessee" and "assessee" respectively by s. 5 of the Indian Income tax (Amendment) Act 1926 (24 of 1926)

[2] This proviso was added by s 6 *ibid*

[3] These words were substituted for the words 'The Board of Inland Revenue" by s 4 and Sch of the Central Board of Revenue Act, 1924 (4 of 1924)

[4] For such rules *see* Gen R and O Vol V, p 50

Insertion of new Chapter IXA in Act XI of 1922.

5. After Chapter IX of the said Act the following Chapter shall be inserted, namely:—

"CHAPTER IXA

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS

Definitions.

58A. In this Chapter, unless there is anything repugnant in the subject or context,—

(*a*) a "recognised provident fund" means a provident fund which has been and continues to be recognised by the Commissioner, in accordance with the provisions of this Chapter;

(*b*) an "employer" means—

(*i*) a Hindu undivided family, company, firm or other association of individuals or persons, or

(*ii*) an individual engaged in a business, profession or vocation whereof the profits and gains are assessable to income-tax under section 10 or section 11,

maintaining a provident fund for the benefit of his or its employees;

(*c*) an "employee" means an employee participating in a provident fund, but does not include a personal or domestic servant;

(*d*) a "contribution" means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own monies, to the individual account of an employee, but does not include any sum credited as interest;

(*e*) the "balance to the credit" of an employee means the total amount to the credit of his individual account in a provident fund at any time;

(*f*) the "annual accretion" to the balance to the credit of an employee means the increase to such balance in any year, arising from contributions and interest;

(*g*) the

(*g*) the "accumulated balance due" to an employee means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund; and

(*h*) the "regulations of a fund" means the special body of regulations governing the constitution and administration of a particular provident fund.

58B (*1*) The Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in section 58C and the rules made thereunder, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions

The according and withdrawal of recognition.

(*2*) The Governor General in Council may, at his discretion, direct the Commissioner of Income-tax to refuse to accord recognition to any provident fund, or may, at any time, withdraw recognition from any recognised provident fund.

(*3*) An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Central Board of Revenue may make in this behalf, such date not being later than the last day of the financial year in which the order is made

(*4*) An order withdrawing recognition shall take effect from the day on which it is made

(*5*) An employer objecting to an order of the Commissioner refusing to recognise a provident fund may appeal, within sixty days of such order, to the Central Board of Revenue

The appeal shall be in the form and shall be verified in the manner prescribed by the Central Board of Revenue

58C (*1*) In order that a provident fund may receive and retain recognition, it shall satisfy the conditions set out below and any other conditions which the Governor General in Council may, by rule, prescribe—

Conditions to be satisfied by a recognised provident fund

(*a*) All employees shall be employed in India, or shall be employed by an employer whose principal place of business is in British India

(*b*) The contributions of an employee in any year shall be a definite proportion of his salary for that year, and

and shall be deducted by the employer from the employee's salary in that proportion at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund

(c) Subject to the provisions of section 58D the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year

(d) The fund shall consist of contributions as above specified, of accumulations thereof, and of interest (simple and compound), credited in respect of such contributions and accumulations, and of securities purchased therewith and of no other sums

(e) The fund shall be vested in two or more trustees, or in the Trustee under a trust which shall not be revocable save with the consent of all the beneficiaries

(f) The employer shall not be entitled to recover any sum

XI of 1922 2 In clause (e) of sub section (1) of section 58C of the Indian Income tax Act, 1922, after the word "trustees" the words "or in the Official Trustee" shall be inserted

Amendment of section 58C, Act XI of 1922

or ill health or ...

expiration of the term of service specified in this behalf in the regulations of the fund

In such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee and to interest (simple and compound) credited in respect of such contributions and accumulations thereof, in accordance with the regulations of the fund

(g) The accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund

(h) Save as provided in clause (g), or in accordance with such conditions and restrictions as the Governor General in Council may by rules, prescribe, no portion of the balance to the credit of an employee shall be payable to him

(2) where

(2) Where there is a repugnance between any regulation of a recognised provident fund and any provision of this Chapter or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect

The Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund

58D Subject to any rules which the Governor General in Council may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of condition (*c*) of sub section (*1*) of section 58C— Power to relax restrictions of employer's contributions in certain cases

(*a*) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salary does not exceed five hundred rupees per mensem, and

(*b*) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund

58E The annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund shall be deemed to have been received by him in that year and shall be included in his total income for that year, and, subject to the exemptions specified in section 58F, shall be liable to income tax and super tax Annual accretion deemed to be income received

Provided that, for the purpose of sub section (*3*) of section 15, out of such annual accretion only the employee's own contributions shall be included in his total income

58F (*1*) An employee shall not be liable to pay income tax on contributions to his individual account in a recognised provident fund, in so far as the aggregate of such contributions in any year does not exceed one sixth of his salary in that year Exemption of annual accretion from income tax

(*2*) In the accounts of a recognised provident fund, the contributions exempted from income tax under sub-section (*1*) and accumulations thereof shall be shown separately, and interest thereon shall be calculated and shown separately Such interest shall be exempt from payment of income tax, in so far as it is allowed at a rate not exceeding such rate as the

the Governor General in Council may, by notification in the Gazette of India, fix in this behalf.

Exemption of accumulated balance from income-tax and super-tax.

58F. Where an employee participating in a recognised provident fund has rendered continuous service with his employer for a period of not less than five years and the accumulated balance due to him becomes payable, such accumulated balance shall be exempt from payment of income-tax and of super-tax, and shall be excluded from the computation of his total income:

Provided that the Commissioner of Income-tax may allow such exemption and exclusion where the employee has rendered continuous service with the employer for a period of less than five years, if, in his opinion, the service has been terminated by reason of the employee's ill health, or by the contraction or discontinuance of the employer's business, or other cause beyond the control of the employee.

(2) Where exemption from payment of income-tax is not allowed under the provisions of sub-section (1), the Income-tax Officer shall calculate the total of the various sums of income-tax from the payment of which the contributions and interest credited to the employee's individual account have been exempted under the provisions of sub-sections (1) and (2) of section 58E, and such total shall be payable by the employee, in addition to any other income-tax for which he may be liable for the year in which the accumulated balance due to him becomes payable.

Deduction at source of income-tax payable on accumulated balances due.

58H. The trustees of a recognised provident fund, or other person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, at the time an accumulated balance due to an employee is paid, deduct therefrom any income-tax payable under sub-section (2) of section 58G and any income-tax and super-tax payable on an employee's total income as determined under sub-section (3) of section 58J, and sub-sections (4) to (9) of section 18 shall apply as if the sum to be deducted were income-tax payable under the head "Salaries."

Accounts of recognised provident funds.

58I. (1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars as the Central Board of Revenue may prescribe.

(2) The

(2) The accounts shall be open to inspection at all reasonable times by Income-tax authorities, and the trustees shall furnish to the Income tax Officer such abstracts thereof as the Central Board of Revenue may prescribe

58J (1) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day before the day on which the recognition takes effect, showing the balance to the credit of each employee on such day, and containing such further particulars as the Central Board of Revenue may prescribe

Treatment of balances in newly recognised provident funds

(2) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and sub sections (3) and (4) shall apply thereto

Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income tax and super tax in accordance with the provisions of this Act other than this Chapter

(3) Subject to such rules as the Central Board of Revenue may make in this behalf, the Income tax Officer shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income tax if this Chapter had been in force from the date of the institution of the fund without regard to any tax which may have been paid on any such sum, and such aggregate (if any) shall be deemed to be income received by the employee in the year in which the recognition of the fund takes effect and shall be included in the employee's total income for that year and for the purposes of assessment the remainder of the transferred balance shall be disregarded but no other exemption or relief by way of refund or otherwise shall be granted in respect of any sum comprised in such transferred balance

Provided that in cases of serious accounting difficulty the Commissioner shall have power subject to the said rules to make a summary calculation of such aggregate

(4) Notwithstanding

assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund,

(*d*) determining the extent to and the manner in which exemption from payment of income tax and super tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn, and

(*e*) generally, to carry out the purposes of this Chapter and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as he may deem requisite

58M This Chapter shall not apply to any provident fund to which the Provident Funds Act 1925, applies" Application of this Chapter

X of 1925

(4) Notwithstanding anything contained in condition (*h*) of sub section (*1*) of section 58C, an employee, in order to enable him to pay the amount of tax assessed on his total income as determined under sub section (*3*), shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance had not been included in his total income

(5) Nothing in this section shall affect the rights of the persons administering an unrecognised provident fund or dealing with it or with the balance to the credit of any individual employee, before recognition is accorded, in any manner which may be lawful

Treatment of fund transferred by employer to trustee

58K (*1*) Where an employer who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it transfers such fund or portion to trustees in trust for the employees participating in the fund the amount so transferred shall be deemed to be of the nature of capital expenditure

(*2*) When an employee participating in such fund is paid the accumulated balance due to him therefrom any portion of such balance as represents his share in the amount so transferred to the trustee (without addition of interest and exclusive of the employee's contributions and interest thereon) shall be deemed to be an expenditure by the employer within the meaning of clause (*ix*) of sub section (*2*) of section 10 incurred in the year in which the accumulated balance due to the employee is paid

Provisions relating to rules

58L (*1*) All rules made under this Chapter shall be subject to the provisions of sub sections (*4*) and (*5*) of section 59

(*2*) In addition to any power conferred by this Chapter the Governor General in Council may make rules—

(*a*) prescribing the statements and other information to be submitted with an application for recognition

(*b*) limiting the contributions to a recognised provident fund by employees of a company who are share holders in the company,

(*c*) providing for the assessment by way of penalty of any consideration received by an employee for an assignment

assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund,

(*d*) determining the extent to and the manner in which exemption from payment of income-tax and super-tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn, and

(*e*) generally, to carry out the purposes of this Chapter and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as he may deem requisite

Application of this Chapter

58M This Chapter shall not apply to any provident fund to which the Provident Funds Act 1925, applies" X of 1925

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(*Chapter X —Miscellaneous*)

(*b*) prescribe the procedure to be followed on applications for refunds,

(*c*) provide for such arrangements with His Majesty's Government as may be necessary to enable the appropriate relief to be granted under section 27 of the Finance Act, 1920, or under section 49 of this Act,

10 & 11 Geo V, Ch 18

(*d*) prescribe the year which, for the purpose of relief under section 49, is to be taken as corresponding to the year of assessment for the purposes of section 27 of the Finance Act, 1920, and

10 & 11 Geo V, Ch 18

(*e*) provide for any matter which by this Act is to be prescribed

[1][(*3*) In cases coming under clause (*a*) of sub section (*2*), where the income, profits and gains liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which, in the opinion of the Central Board of Revenue, is unreasonable, the rules made under that sub section may—

(*a*) prescribe methods by which an estimate of such income, profits and gains may be made, and

(*b*) in cases coming under sub clause (i) of clause (*a*) of sub section (*2*), prescribe the proportion of the income which shall be deemed to be income profits and gains liable to tax,

and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act]

[2][(*4*)] The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof be subject to the condition of previous publication

[2][(*5*)] Rules made under this section shall be published in the Gazette of India, and shall thereupon have effect as if enacted in this Act

Power to make exemptions etc

60 The Governor General in Council may by notification[3] in the Gazette of India make an exemption reduction in rate or other modification in respect of income tax in favour of any class of income or in regard to the whole or any part of the income of any class of persons

Appearance by authorised representative

61 Any assessee who is entitled or required to attend before any income tax authority in connection with any proceedings under this Act, may attend either in person or by any person authorised by him in writing in this behalf

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[1] This sub-section was inserted by s 2 of the Indian Income tax (Amendment) Act 1927 (28 of 1927)

[2] This sub section was re numbered *ibid*

[3] For such Notifications *see* Gen R and O, Vol V, pp 80-86

(Chapter X.—Miscellaneous.)

Receipts to be given.

62. A receipt shall be given for any money paid or recovered under this Act.

Service of notices.

63. (*1*) A notice or requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908. V of 1908.

(*2*) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or [1][to the] manager, or any adult male member of the family [2][and, in the case of any other association of individuals, be addressed to the principal officer thereof].

Place of assessment.

64. (*1*) Where an assessee carries on business at any place he shall be assessed by the Income tax Officer of the area in which that place is situate or, where the business is carried on in more places than one, by the Income tax Officer of the area in which his principal place of business is situate.

(*2*) In all other cases, an assessee shall be assessed by the Income-tax Officer of the area in which he resides.

(*3*) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner, or, where the question is between places in more provinces than one, by the Commissioners concerned, or, if they are not in agreement, by [The Central Board of Revenue][3]:

Provided that, before any such question is determined, the assessee shall have had an opportunity of representing his views.

(*4*) Notwithstanding anything contained in this section, every Income tax Officer shall have all the powers conferred by or under this Act on an Income tax Officer in respect of any income, profits or gains accruing, or arising or received within the area for which he is appointed.

Indemnity.

65. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

Statement of case by Commissioner to High Court.

66. (*1*) If, in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter VIII, a question of law arises, the Commissioner may, either

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[1] These words were substituted for the words "on the" by s. 2 and Sch. I of the Repealing and Amending Act, 1924 (7 of 1924).

[2] These words were added by s. 9 of the Indian Income-tax (Amendment) Act, 1924 (11 of 1924).

[3] These words were substituted for the words "The Board of Inland Revenue" by s. 4 and Sch. of the Central Board of Revenue Act, 1924 (4 of 1924).

on his own motion or on reference from any Income-tax authority subordinate to him, draw up a statement of the case and refer it with his own opinion thereon to the High Court.

(2) Within one month of the passing of an order under section 31 or section 32, the assessee in respect of whom the order was passed may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, require the Commissioner to refer to the High Court any question of law arising out of such order and the Commissioner shall, within one month of the receipt of such application, draw up a statement of the case and refer it with his own opinion thereon to the High Court:

Provided that, if, in exercise of his power of ~~review~~ Revision under section 33, the Commissioner decides the question, the assessee may withdraw his application, and if he does so, the fee paid shall be refunded.

(3) If, on any application being made under sub-section (2), the Commissioner refuses to state the case on the ground that no question of law arises, the assessee may [1][within six months from the date on which he is served with notice of the refusal] apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Commissioner's decision, may require the Commissioner to state the case and to refer it, and, on receipt of any such requisition, the Commissioner shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Commissioner by whom it was stated to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Commissioner by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Commissioner shall dispose of the case accordingly or, if the case arose on a reference from any Income-tax authority subordinate to him, shall forward a copy of such judgment to such authority who shall dispose of the case conformably to such judgment.

(6) Where a reference is made to the High Court on the application of an assessee, the costs shall be in the discretion of the Court.

[1] These words were inserted by s. 10 of the Indian Income-tax (Amendment) Act, 1924 (11 of 1924).

(*Chapter X.—Miscellaneous.*)

(7) Notwithstanding that a reference has been made under this section to the High Court, income-tax shall be payable in accordance with the assessment made in the case:

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow.

[1][(8) For the purposes of this section "the High Court" means—

(*a*) in relation to the North-West Frontier Province and British Baluchistan, the High Court of Judicature at Lahore,

(*b*) in relation to the province of Ajmer Merwara, the High Court of Judicature at Allahabad, and

(*c*) in relation to the province of Coorg, the High Court of Judicature at Madras.]

References to be heard by Benches of High Courts, and appeal to lie in certain cases to Privy Council.

[2][**66A.** (*1*) When any case has been referred to the High Court under section 66, it shall be heard by a Bench of not less than two Judges of the High Court, and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908, shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force. V of

(*2*) An appeal shall lie to His Majesty in Council from any judgment of the High Court delivered on a reference made under section 66 in any case which the High Court certifies to be a fit one for appeal to His Majesty in Council.

(*3*) The provisions of the Code of Civil Procedure, 1908, relating to appeals to His Majesty in Council shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court: V of

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (*5*) or sub-section (*7*) of section 66:

Provided, further, that the High Court may, on petition made for the execution of the order of His Majesty in Council in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court.

(*4*) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of His Majesty in Council in the manner provided in sub-sections (*5*) and (*7*) of section 66 in the case of a judgment of the High Court.

[1] This sub-section was added by s. 7 of the Indian Income-tax (Amendment) Act, 1926 (24 of 1926).

[2] This section was inserted by s. 8, *ibid*.

(5) Nothing in this section shall be deemed—

(a) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council, or otherwise howsoever, or

(b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee.]

Bar of suits in Civil Court

67. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act and no prosecution suit or other proceeding shall lie against any Government officer for anything in good faith done or intended to be done under this Act.

68. [*Repeals.*] *Repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).*

[*THE SCHEDULE.*]

[*Enactments Repealed.*] *Repealed by s. 2 and Sch. of the Repealing Act 1927 (12 of 1927).*

ACT No. XII OF 1922.[1]

[*27th March, 1922.*]

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, further to amend the Indian Tariff Act, 1894, and the Indian Post Office Act, 1898, to amend the Indian Paper Currency (Amendment) Act, 1920, to impose an excise duty on kerosene, to fix rates of income-tax and to abolish the freight tax.

VIII of 1894. VI of 1898. XLV of 1920.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into certain parts of British India further to amend the Indian Tariff Act, 1894 and the Indian Post Office Act 1898 to amend the Indian Paper Currency (Amendment) Act 1920[2] to impose an excise duty on kerosene to fix rates of income tax and to abolish the freight tax, It is hereby enacted as follows:—

Short title, extent and duration.

1. (1) This Act may be called the Indian Finance Act 1922.

(2) It extends to the whole of British India including the Sonthal Parganas and, except as regards section 5 British Baluchistan.

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1 For Statement of Objects and Reasons see Gazette of India 1922 Pt. V, p. 198.

2 This Act has been repealed by s. 30 and Sch. of the Indian Paper Currency Act 1923 (10 of 1923).

1* * * * *

2. [*Fixation of salt duty.*] *Repealed by s. 2 of the Indian Finance Act, 1923.*

Amendment of Act VIII of 1894.

3. (*1*) With effect from the first day of March, 1922, for the Second Schedule to the Indian Tariff Act, 1894, the Schedule contained in the First Schedule to this Act shall be substituted. VIII of 1894.

2* * * * *

4. [*Amendment of Act VI of 1898.*] *Repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).*

Imposition of excise duty on kerosene.

5. With effect from the first day of March, 1922, the provisions of the Motor Spirit (Duties) Act, 1917, which provide for the levy and collection of an excise duty on motor spirit, that is to say, all the provisions of that Act except section 6 thereof, shall apply also for the purpose of the levy and collection of an excise duty on kerosene as if references in the said Act to motor spirit (other than the reference in the second clause of section 2 thereof) were references to kerosene. II of 1917.

Provided that the duty on kerosene shall be levied and collected at the rate of one anna and six pies on each imperial gallon.

Explanation.—For the purposes of this section "kerosene" means any inflammable hydro carbon (including any mixture of hydro carbons or any liquid containing hydro-carbons but excluding motor spirit) which—

(*a*) is made from petroleum as defined in section 2 of the Indian Petroleum Act, 1899, and VIII of 1899.

(*b*) is intended to be or is ordinarily used in liquid form for purposes of illumination.

6. [*Amendment of Act XLV of 1920.*] *Repealed by s. 30 and Schedule of the Indian Paper Currency Act, 1923 (10 of 1923).*

7. [*Income tax and super tax.*] *Repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).*

8. [*Repeal of Act XIII of 1917.*] *Repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).*

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[1] Sub section (3) was repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).

[2] Sub section (*) was repealed *ibid.*

SCHEDULE I.

Schedule to be substituted in the Indian Tariff Act, 1894

[*See section 3 (1).*]

" SCHEDULE II—IMPORT TARIFF.

PART I.

Articles which are free of duty

No.	*Names of Articles*
	I —FOOD, DRINK AND TOBACCO—
1	HOPS
2	[illegible]
	(For the general duty on salt, *see* No 35)
	II —RAW MATERIALS AND PRODUCE AND ARTICLES MAINLY UNMANUFACTURED—
	HIDES AND SKINS, RAW.
3	HIDES AND SKINS, raw or salted.
	METALLIC ORES.
4	METALLIC ORES, all sorts.
	PRECIOUS STONES AND PEARLS
5	PRECIOUS STONES, unset and imported uncut, and PEARLS, unset.
	SEEDS
6	OIL SEEDS imported into British India by sea from the territories of any Prince or Chief in India.
	TEXTILE MATERIALS
7	COTTON, raw.
8	WOOL, raw, and WOOL TOPS
	MISCELLANEOUS
9	MANURES, all sorts, including animal bones and the following chemical manures :— Basic slag, nitrate of ammonia, nitrate of soda, muriate of potash, sulphate of ammonia, sulphate of potash, kainit salts nitrate of lime, calcium cyanamide, mineral phosphates and mineral superphosphates
10	PULP OF WOOD, RAGS and other paper making materials

SCHEDULE II—Import Tariff—*contd*

Part I—*contd*

Articles which are free of duty

No	Names of Articles
	III.—Articles wholly or mainly manufactured—
	APPAREL
11	Uniforms and accoutrements appertaining thereto imported by a public servant for his personal use
	ARMS, AMMUNITION AND MILITARY STORES
12	The following Arms Ammunition and Military Stores —
	(*a*) Articles falling under the 5th, 6th 8th 9th or 10th item of No 42, when they appertain to a firearm falling under the 1st or 3rd item and are fitted into the same case with such firearm
	(*b*) Arms forming part of the regular equipment of a commissioned or gazetted officer in His Majesty s Service entitled to wear diplomatic, military, naval, Royal Air Force or police uniform
	(*c*) [illegible]
	(*d*) Swords for presentation as army or volunteer prizes
	(*e*) Arms ammunition and military stores imported with the sanction of the Government of India for the use of any portion of the military forces of a State in India which may be maintained and organized for Imperial Service
	(*f*) Morris tubes and patent ammunition imported by officers commanding British and Indian regiments or volunteer corps for the instruction of their men
	CHEMICALS DRUGS AND MEDICINES
13	Anti plague serum
14	Quinine and other alkaloids of Cinchona

SCHEDULE II—Import Tariff—*contd*

Part I—*contd*

Articles which are free of duty

No	Names of Articles
	HARDWARE IMPLEMENTS AND INSTRUMENTS
15	T [illegible]
16	The [illegible] dairy purposes
17	Instruments apparatus and appliances imported by a passenger as part of his personal baggage and in actual use by him in the exercise of his profession or calling
18	Water lifts sugar mills oil presses and parts thereof when constructed so that they can be worked by manual or animal power
	METALS
19	Current nickel bronze and copper coin of the Government of India
20	Gold and silver bullion and coin
	PAPER
21	Trade catalogues and advertising circulars imported by packet book, or parcel post
	YARNS AND TEXTILE FABRICS
22	Second hand or used gunny bags made of jute
	MISCELLANEOUS
23	[illegible]
24	Books printed including covers for printed books maps charts and plans proofs, music and manuscripts
	IV —Miscellaneous and unclassified—
25	Animals living all sorts
26	Specimens illustrative of natural science and medals and antique coins

SCHEDULE II—IMPORT TARIFF—*contd*

PART II

Articles which are liable to duty at special rates

No	Names of Articles	Unit or method of assessment	Rate of duty
	I.—FOOD, DRINK AND TOBACCO—		
	FISH		
27	FISH, SALTED, wet or dry	Indian maund of 82 2/7 lbs avoirdupois weight	Such rate or rates of duty not exceeding one rupee as the Governor General in Council may by notification in the Gazette of India from time to time prescribe
	LIQUORS		
28	ALE Beer, Porter Cider and other fermented liquors	Imperial gallon or 6 quart bottles	Eight annas
29	SPIRIT, which has been rendered effectually and permanently unfit for human consumption	*Ad valorem*	7½ per cent
			Rs A
30	*PERFUMED SPIRITS*	Imperial gallon or 6 quart bottles	36 0
31	LIQUEURS, Cordials Mixtures and other preparations containing spirit—		
	(a) Entered in such a manner as to indicate that the strength is not to be tested	Ditto	30 0
	(b) If tested	Imperial gallon or 6 quart bottles of the strength of London proof	21 14 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof
32	All other sorts of SPIRIT	Ditto	Ditto

SCHEDULE II—IMPORT TARIFF—*contd.*

PART II—*contd.*

Articles which are liable to duty at special rates

No.	Names of Articles	Unit or method of assessment	Rate of duty
			Rs A.
	LIQUORS—*contd*		
33	WINES—		
	Champagne and all other sparkling wines not containing more than 42 per cent of proof spirit	Imperial gallon or 6 quart bottles	9 0
	All other sorts of wines not containing more than 42 per cent. of proof spirit	Ditto	4 8
	Provided that all sparkling and still wines containing more than 42 per cent of proof spirit shall be liable to duty at the rate applicable to "All other sorts of Spirit"		
	SUGAR		
34	SUGAR, all sorts including molasses and saccharine produce of all sorts, but excluding confectionery (*see* No 124)	*Ad valorem*	25 per cent
	OTHER FOOD AND DRINK		
35	SALT, excluding salt exempted under No 2	Indian maund of 82$\frac{2}{7}$ lbs avoirdupois weight	The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place
	TOBACCO		
36	TOBACCO, unmanufactured	Pound	1 0
37	CIGARS AND CIGARETTES	*Ad valorem*	75 per cent

SCHEDULE II—IMPORT TARIFF—*contd*

PART II—*concld*

Articles which are liable to duty at special rates

No	Names of Articles	Unit or method of assessment	Rate of duty
	YARNS AND TEXTILE FABRICS		
44	COTTON TWIST AND YARN, AND COTTON SEWING OR DARNING THREAD	*Ad valorem*	5 per cent
45	COTTON PIECE GOODS	*Ad valorem*	11 per cent
	MISCELLANEOUS		
46	Matches—		Rs A
	(1) In boxes containing on the average not more than 100 matches	Per gross of boxes	1 8
	(2) In boxes containing on the average more than 100 matches	For every 25 matches or fraction thereof in each box per gross of boxes	0 6

PART III

Articles which are liable to duty at 2½ per cent *ad valorem*

No	Names of Articles
	I —FOOD, DRINK AND TOBACCO—
	GRAIN, PULSE AND FLOUR
47	GRAIN AND PULSE all sorts, including broken grains and pulse, but excluding flour (*see* No 68)
	PROVISIONS AND OILMAN S STORES
48	VINEGAR in casks
	II —RAW MATERIALS AND PRODUCE AND ARTICLES MAINLY UNMANUFACTURED—
	WOOD AND TIMBER
49	FIREWOOD

SCHEDULE II—IMPORT TARIFF—*contd*

PART III—*contd*

Articles which are liable to duty at $2\frac{1}{2}$ per cent. *ad valorem.*

No	*Names of Articles.*
	III.—ARTICLES WHOLLY OR MAINLY MANUFACTURED—
	CHEMICALS, DRUGS AND MEDICINES
50	COPPERAS, green.
	MACHINERY.
51	[illegible]
	[illegible]
	driving machinery
	[illegible]
	Note.—This entry includes machinery and component parts thereof made of substances other than metal.
	METALS OTHER THAN IRON AND STEEL
52	LEAD sheets, for tea chests
	MISCELLANEOUS
53	AEROPLANES, aeroplane parts, aeroplane engines and aeroplane engine parts

SCHEDULE II—IMPORT TARIFF—*contd*

PART III—*concld*

Articles which are liable to duty at 2½ per cent *ad valorem*

No	Names of Articles
	MISCELLANEOUS—*contd*
54	PRI
55	RACKS for the withering of tea leaf
56	TEA CHESTS of metal or wood, whether imported entire or in sections provided that the Collector of Customs is satisfied that they are imported for the purpose of the packing of tea for transport in bulk
57	FODDER, BRAN AND POLLARDS

PART IV

Articles which are liable to duty at 10 per cent *ad valorem*

No	Names of Articles
	II —RAW MATERIALS AND PRODUCE AND ARTICLES MAINLY UNMANUFACTURED—
	METALLIC ORES AND SCRAP IRON OR STEEL FOR RE MANUFACTURE.
58	IRON OR STEEL, old
	III —ARTICLES WHOLLY OR MAINLY MANUFACTURED—
	HARDWARE, IMPLEMENTS AND INSTRUMENTS
59	TELEGRAPHIC INSTRUMENTS AND APPARATUS, and parts thereof imported by, or under the orders of, a Railway Company
	METALS—IRON AND STEEL
60	IRON angle
	„ bar, rod and channel, including channel for carriages
	„ pig
	„ rice bowls

SCHEDULE II—IMPORT TARIFF—*contd.*

PART IV—*contd*

Articles which are liable to duty at 10 per cent *ad valorem.*

No.	Names of Articles
	METALS—IRON AND STEEL—*contd*
61	IRON OR STEEL, anchors and cables
	,, ,, beams, joists, pillars, girders screw piles, bridge work and other descriptions of iron or steel imported exclusively for building purposes, including also ridging, guttering and continuous roofing
	,, ,, bolts and nuts, including hook bolts and nuts for roofing
	,, ,, hoops and strips
	,, ,, nails, rivets and washers, all sorts
	,, ,, pipes and tubes and fittings therefor, such as bends, boots, elbows, tees, sockets, flanges, and the like
	,, ,, rails, chairs, sleepers, bearing and fishplates, spikes (commonly known as dog spikes), switches and crossings, other than those described in No 63, also lever boxes, clips and tie bars
	,, ,, sheets and plates all sorts excluding discs and circles which are dutiable under No 97
	,, ,, wire, including fencing wire, piano wire and wire rope, but excluding wire netting which is dutiable under No 97.
62	STEEL, angle.
	,, bar, rod and channel, including channel for carriages.
	,, cast, including spring blistered and tub steel
	,, ingots, blooms, billets and slabs.
	RAILWAY PLANT AND ROLLING STOCK
63	RA[illegible] the orders of, a railway company, namely, cranes water cranes water tanks, and standards wire and other materials for fencing
	Provided that for the purpose of this entry 'railway' means a line of railway subject to the provisions of the Indian Railways Act 1890, and includes a railway constructed in a State in India and also such tramways as the Governor General in Council may by notification in the Gazette of India specifically include therein

SCHEDULE II—IMPORT TARIFF—*contd*

PART IV—*concld*

Articles which are liable to duty at 10 per cent *ad valorem.*

No	Names of Articles
	RAILWAY PLANT AND ROLLING STOCK—*contd*
	Provided also that only such articles shall be admitted as component parts of railway materials as are indispensable for the working of railways, and are, owing to their shape or to other special quality, not adapted for any other purpose
64	SHIPS AND OTHER VESSELS for inland and harbour navigation, including steamers, launches, boats and barges imported entire or in sections

PART V.

Articles which are liable to duty at 15 per cent *ad valorem.*

No	Names of Articles
	I.—FOOD, DRINK AND TOBACCO—
	FISH.
65	FISH, excluding salted fish (*see* No 27)
66	FISHMAWS, including singally and sozille, and sharkfins.
	FRUITS AND VEGETABLES.
67	FRUITS AND VEGETABLES, all sorts, fresh, dried, salted or preserved
	GRAIN, PULSE AND FLOUR
68	FLOUR.
	PROVISIONS AND OILMAN'S STORES.
69	PROVISIONS AND OILMAN'S STORES AND GROCERIES, all sorts, excluding vinegar in casks (*see* No 48)

SCHEDULE II—IMPORT TARIFF—*contd*

PART V—*contd.*

Articles which are liable to duty at 15 per cent *ad valorem*

No	Names of Articles
	SPICES
70	SPICES, all sorts
	TEA
71	TEA
	OTHER FOOD AND DRINK.
72	COFFEE
73	All other sorts of Food and Drink not otherwise specified.
	II —RAW MATERIALS AND PRODUCE AND ARTICLES MAINLY UNMANUFACTURED—
	GUMS, RESINS AND LAC.
74	GUMS, RESINS AND LAC, all sorts
	OILS
75	All sorts of animal essential mineral and vegetable non-essential oils not otherwise specified (*see* Nos 40 and 41)
	SEEDS
76	SEEDS, all sorts excluding oil seeds imported into British India by sea from the territories of any Prince or Chief in India (*see* No 6)
	TALLOW, STEARINE AND WAX
77	TALLOW AND STEARINE including grease and animal fat, and wax of all sorts not otherwise specified
	TEXTILE MATERIALS
78	TEXTILE MATERIALS the following — Silk waste and raw silk including cocoons, raw flax, hemp, jute and all other unmanufactured textile materials not otherwise specified
	WOOD AND TIMBER
79	WOOD AND TIMBER all sorts not otherwise specified, including all sorts of ornamental wood
	MISCELLANEOUS
80	CANES AND RATTANS
81	COWRIES AND SHELLS

SCHEDULE II—IMPORT TARIFF—*contd.*

PART V—*contd*

Articles which are liable to duty at 15 per cent *ad valorem*

No	Names of Articles
	MISCELLANEOUS—*contd*
82	IVORY, unmanufactured
83	PRECIOUS STONES, unset and imported cut (*see* No 5).
84	All other raw materials and produce and articles mainly unmanufactured not otherwise specified
	III —ARTICLES WHOLLY OR MAINLY MANUFACTURED—
	APPAREL
85	APPAREL including drapery, boots and shoes and military and other uniforms and accoutrements but excluding uniforms and accoutrements exempted from duty under No 11 and gold and silver thread (*see* Nos 132 and 133) and articles made of silk (*see* No 134)
	ARMS, AMMUNITION AND MILITARY STORES
86	EXPLOSIVES, namely, blasting gunpowder, blasting gelatine, blasting dynamite, blasting roburite, blasting tonite, and all other sorts including detonators and blasting fuze
	CARRIAGES AND CARTS
87	CARRIAGES AND CARTS, including tramcars, motor omnibuses, motor lorries, No 127)
	CHEMICALS, DRUGS AND MEDICINES
88	CHEMICALS, DRUGS AND MEDICINES, all sorts not otherwise specified
	CUTLERY, HARDWARE IMPLEMENTS AND INSTRUMENTS
89	CUTLERY excluding plated cutlery (*see* No 12J)
90	HARDWARE, IRONMONGERY AND TOOLS, all sorts not otherwise specified

SCHEDULE II—Import Tariff—*contd.*

Part V—*contd.*

Articles which are liable to duty at 15 per cent *ad valorem.*

No.	Names of Articles
	CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS—*contd.*
91	All other sorts of Implements, instruments, apparatus, and appliances, and parts thereof not otherwise specified
	DYES AND COLOURS
92	Dyeing and Tanning Substances, all sorts and paints and colours and painters' materials, all sorts
	FURNITURE, CABINETWARE AND MANUFACTURES OF WOOD
93	Furniture, Cabinetware and all other manufactures of wood not otherwise specified
	GLASSWARE AND EARTHENWARE
94	Glass and Glassware, lacquered ware, earthenware, china and porcelain; all sorts except glass bangles and beads and false pearls (*see* No. 131)
	HIDES AND SKINS AND LEATHER
95	Hides and skins not otherwise specified, leather and leather manufactures, all sorts, not otherwise specified
	MACHINERY
96	Machinery and component parts thereof, meaning machines or parts of machines to be worked by manual or animal labour, not otherwise specified (*see* Nos. 15, 16 and 18)
	METALS—IRON AND STEEL
97	All sorts of iron and steel and manufactures thereof, not otherwise specified
	METALS OTHER THAN IRON AND STEEL
98	All sorts of metals other than iron and steel and manufactures thereof not otherwise specified
	PAPER, PASTEBOARD AND STATIONERY
99	Paper and articles made of paper and papier maché, pasteboard, millboard, and cardboard, all sorts and stationery, including ruled or printed forms and account and manuscript books, drawing and copy books, labels, advertising circulars, sheet or card almanacs and calendars, Christmas, Easter and other cards, including cards in booklet form, including also wastepaper and old newspapers for packing, but excluding trade catalogues and advertising circulars imported by packet, book or parcel post (*see* No. 21)

(2) It shall come into force on such date[1] as the Governor General in Council may, by notification in the Gazette of India, appoint

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "the Board" means the Board of Trustees for the European Hospital for mental diseases at Ranchi constituted under this Act,

(*b*) "the Chairman" means the Chairman of the Board,

(*c*) "the Hospital" means the European Hospital for mental diseases established at Ranchi in the province of Bihar and Orissa,

(*d*) "land" means land as defined in section 3 of the Land Acquisition Act, 1894, I of 1894.

(*e*) "the Local Government" means the Local Government of Bihar and Orissa,

(*f*) "the Superintendent" means the Superintendent of the Hospital appointed by the Local Government, and

(*g*) "Trustee" means a member of the Board.

Incorporation of Trustees

3 Subject to the provisions of this Act, the entire management and control of the Hospital shall, on and from the date on which this Act comes into force, be vested in a Board to be called "the Trustees for the European Hospital for mental diseases at Ranchi," and the Board shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued

Constitution of the Board

4. (1) The Board shall consist of fourteen Trustees, namely —

(*a*) a Chairman appointed by the Local Government,

(*b*) four Trustees appointed by the Local Government of Bengal,

(*c*) two Trustees appointed by each of the Local Governments of the United Provinces of Agra and Oudh, the Punjab and Bihar and Orissa,

(*d*) one Trustee appointed by the Local Government of the Central Provinces,

(*e*) one Trustee elected by the Council of the Company which was at the commencement of this Act registered under the

[1] From 1st July 1922, see Gen R and O, Vol V, p

SCHEDULE II—IMPORT TARIFF—*contd.*

PART V—*contd.*

Articles which are liable to duty at 15 per cent. *ad valorem.*

No.	Names of Articles
	CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS—*contd.*
91	All other sorts of IMPLEMENTS, INSTRUMENTS, APPARATUS, AND APPLIANCES, and parts thereof, not otherwise specified
	DYES AND COLOURS
92	DYEING AND TANNING SUBSTANCES, all sorts, and paints and colours and painters' materials, all sorts
	FURNITURE, CABINETWARE AND MANUFACTURES OF WOOD
93	FURNITURE, CABINETWARE and all other manufactures of wood not otherwise specified
	GLASSWARE AND EARTHENWARE.
94	GLASS AND GLASSWARE, lacquered ware earthenware, china and porcelain; all sorts except glass bangles and beads and false pearls (*see* No 131)
	HIDES AND SKINS AND LEATHER
95	HIDES AND SKINS not otherwise specified, LEATHER AND LEATHER MANUFACTURES, all sorts, not otherwise specified
	MACHINERY
96	MACHINERY AND COMPONENT PARTS thereof, meaning machines or parts of machines to be worked by manual or animal labour, not otherwise specified (*see* Nos 15, 16 and 18)
	METALS—IRON AND STEEL
97	All sorts of IRON AND STEEL and manufactures thereof, not otherwise specified
	METALS OTHER THAN IRON AND STEEL
98	All sorts of METALS OTHER THAN IRON AND STEEL, and manufactures thereof, not otherwise specified
	PAPER PASTEBOARD AND STATIONERY
99	PAPER AND ARTICLES MADE OF PAPER AND PAPIER MACHÉ, PASTEBOARD MILLBOARD, AND CARDBOARD, all sorts, and STATIONERY, including ruled or printed forms [illegible]

SCHEDULE II—Import Tariff—*contd*

Part V—*contd*

Articles which are liable to duty at 15 per cent *ad valorem*

No	Names of Articles
	YARNS AND TEXTILE FABRICS
100	Yarns and textile fabrics that is to say —
	Cotton thread other than sewing or darning thread and all other manufactured cotton goods not otherwise specified
	Flax, twist and yarn, and manufactures of flax
	Haberdashery and millinery, excluding articles made of silk (*see* No 134)
	Hemp manufactures
	Hosiery, excluding articles made of silk (*see* No 134)
	Jute, twist and yarn, and jute manufactures excluding second hand or used gunny bags (*see* No 22)
	Silk yarn noils and warps and silk thread
	Woollen yarn, knitting wool, and other manufactures of wool, including felt
	All other sorts of yarns and textile fabrics, not otherwise specified
	MISCELLANEOUS
101	Art, works of, excluding those specified in No 23
102	Brushes and Brooms
103	Building and Engineering materials, including asphalt, bricks, cement chalk and lime clay, pipes of earthenware, tiles and all other sorts of building and engineering materials not otherwise specified
104	Candles
105	Cinematograph films
106	Cordage and rope and twine of vegetable fibre
107	Furniture tackle and apparel, not otherwise described, for steam sailing rowing and other vessels
108	Mats and Matting
109	Oilcakes
110	Oilcloth and Floor cloth

SCHEDULE II—IMPORT TARIFF—*contd*

PART V—*concld*

Articles which are liable to duty at 15 per cent *ad valorem*

No.	Names of Articles
	MISCELLANEOUS—*contd*
111	PACKING—ENGINE AND BOILER—all sorts excluding packing forming a component part of any article included in Nos 51 and 63
112	PERFUMERY not otherwise specified
113	PITCH TAR AND DAMMER
114	POLISHES AND COMPOSITIONS
115	RUBBER tyres and other manufactures of rubber not otherwise specified (*see* No 139)
116	SOAP
117	STARCH AND FARINA
118	STONE AND MARBLE and articles made of stone and marble
119	TOILET REQUISITES not otherwise specified
120	All other articles wholly or mainly manufactured not otherwise specified
	IV —MISCELLANEOUS AND UNCLASSIFIED—
121	CORAL
122	UMBRELLAS, INCLUDING PARASOLS AND SUNSHADES, AND FITTINGS THEREFOR
123	All other articles not otherwise specified including articles imported by post

PART VI

Articles which are liable to duty at 30 per cent *ad valorem*

No	Names of Articles
	I —FOOD DRINK AND TOBACCO—
124	CONFECTIONERY

SCHEDULE II—IMPORT TARIFF—*contd*

PART V—*contd*

Articles which are liable to duty at 15 per cent *ad valorem*

No	Names of Articles
	YARNS AND TEXTILE FABRICS
100	YARNS AND TEXTILE FABRICS that is to say —
	Cotton thread other than sewing or darning thread and all other manufactured cotton goods not otherwise specified
	Flax, twist and yarn and manufactures of flax
	Haberdashery and millinery, excluding articles made of silk (*see* No 134)
	Hemp manufactures
	Hosiery, excluding articles made of silk (*see* No 134)
	Jute, twist and yarn and jute manufactures excluding second hand or used gunny bags (*see* No 22)
	Silk yarn, noils and warps and silk thread
	Woollen yarn, knitting wool, and other manufactures of wool, including felt
	All other sorts of yarns and textile fabrics, not otherwise specified
	MISCELLANEOUS
101	ART, works of, excluding those specified in No 23
102	BRUSHES AND BROOMS
103	BUILDING AND ENGINEERING MATERIALS, including asphalt, bricks, cement, chalk and lime, clay, pipes of earthenware, tiles and all other sorts of building and engineering materials not otherwise specified
104	CANDLES
105	CINEMATOGRAPH FILMS
106	CORDAGE AND ROPE AND TWINE OF VEGETABLE FIBRE
107	FURNITURE TACKLE AND APPAREL, not otherwise described, for steam, sailing rowing and other vessels
108	MATS AND MATTING
109	OILCAKES
110	OILCLOTH AND FLOOR CLOTH

SCHEDULE II—IMPORT TARIFF—*concld.*

PART VI—*concld*

Articles which are liable to duty at 30 per cent *ad valorem*

No	Names of Articles
	YARNS AND TEXTILE FABRICS
134	SILK PIECE GOODS, and other manufactures of silk
	MISCELLANEOUS
135	FIRE WORKS
136	IVORY, manufactured
137	JEWELLERY AND JEWELS
138	PRINTS, engravings and pictures including photographs and picture postcards.
139	PNEUMATIC RUBBER TYRES AND TUBES for motor cars, motor lorries, motor cycles, motor scooters, bicycles and tricycles
140	SMOKERS' REQUISITES, excluding tobacco (Nos 36 to 38) and matches (No 46)
141	TOYS, games, playing cards and requisites for games and sports, including bird-shot "

SCHEDULE II.—*Repealed by s. 2 and Sch of the Repealing Act, 1927* (*12 of 1927*)

SCHEDULE III.—*Repealed by s. 2 and Sch of the Repealing Act, 1927* (*12 of 1927*)

ACT No XIII OF 1922 [1]

[*29th March, 1922*]

An Act to provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto.

WHEREAS it is expedient to provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto, It is hereby enacted as follows :—

1. (*1*) This Act may be called the Ranchi Mental Hospital Act, 1922 Sh an m

[1] For Statement of Objects and Reasons, see Gazette of India, 1922, Pt. V, p 210.

(2) It shall come into force on such date[1] as the Governor General in Council may, by notification in the Gazette of India, appoint

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

(a) "the Board" means the Board of Trustees for the European Hospital for mental diseases at Ranchi constituted under this Act,

(b) "the Chairman" means the Chairman of the Board,

(c) "the Hospital" means the European Hospital for mental diseases established at Ranchi in the province of Bihar and Orissa,

(d) "land" means land as defined in section 3 of the Land Acquisition Act, 1894, I of 1894.

(e) "the Local Government" means the Local Government of Bihar and Orissa,

(f) "the Superintendent" means the Superintendent of the Hospital appointed by the Local Government, and

(g) "Trustee" means a member of the Board

Incorporation of Trustees. **3** Subject to the provisions of this Act, the entire management and control of the Hospital shall, on and from the date on which this Act comes into force, be vested in a Board to be called "the Trustees for the European Hospital for mental diseases at Ranchi," and the Board shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued

Constitution of the Board **4** (1) The Board shall consist of fourteen Trustees, namely —

(a) a Chairman appointed by the Local Government,

(b) four Trustees appointed by the Local Government of Bengal;

(c) two Trustees appointed by each of the Local Governments of the United Provinces of Agra and Oudh, the Punjab and Bihar and Orissa,

(d) one Trustee appointed by the Local Government of the Central Provinces

(e) one Trustee elected by the Council of the Company which was at the commencement of this Act registered under the

[1] From 1st July 1922, see Gen R and O, Vol V, p 87

VII of 1913 Indian Companies Act, 1913, by the name of the European Association, and

(*f*) one Trustee elected by the Anglo-Indian and Domiciled European Association (Bengal), Limited

(2) The Superintendent shall be *ex officio* Secretary of the Board

5. (1) On the date on which this Act comes into force, the Governor General in Council shall pay to the Board a sum of three and a half lakhs of rupees by way of loan, which sum shall be repaid by the Board, together with any interest or costs due in respect thereof, in accordance with such terms and conditions as the Governor General in Council may fix Initial loan to the Board.

(2) Any amount which is repaid or is repayable in any year under sub section (1) shall be taken into account in the calculation of the amount attributable to the cost of maintenance, as defined in section 3

IV of 1912 of the Indian Lunacy Act, 1912 of the lunatics detained in the Hospital in that year

6 (1) The Governor General in Council may on such terms and conditions as he may fix make further loans to the Board for the carrying out of any works in connection with the Hospital which have been sanctioned in accordance with the provisions of any rules made under this Act and the Board shall repay the money borrowed together with any interest or costs due in respect thereof according to the terms and conditions of the loan Loans to the Board for execution of works.

(2) Save as provided in section 5 and sub section (1) the Board shall not borrow money upon or otherwise charge its funds

7. On and from the date on which the provisions of this Act come

IV of 1912 into force, all monies payable under the Indian Lunacy Act 1912 on account of the cost of maintenance of any lunatic in the Hospital shall be paid to the Board

8 The Local Government may at the request of the Board

I of 1894 under the provisions of the Land Acquisition Act 1894 any land which it is satisfied is required by the Board for the purposes of this Act and on payment by the Board of the compensation awarded under that Act and of the charges incurred by the Local Government in connection with the proceedings the land shall vest in the Board

9 Subject to the provisions of this Act and of any rules made thereunder the Board shall maintain such staff of officers and servants

in its opinion be necessary for the proper management and up keep of the Hospital, and shall assign to them such pay and allowances as it thinks fit

Contributions for pensions, etc

10. Where any person in the service of Government is appointed as an officer or servant of the Board the Board shall—

(*a*) if his services are wholly lent or transferred, meet in addition to his pay and allowances any charges prescribed or authorised by any rules for the time being in force under the provisions of section 96B of the Government of India Act regarding contributions towards pensions or gratuities and leave allowances, and

(*b*) if he is employed partly by Government and partly by the Board, meet such proportion of such pay and allowances and charges as may be determined by the Local Government

Trustees and servants to be public servants

11. Every Trustee and every officer and servant of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code XL 186

Returns

12. The Local Government may call upon the Board to furnish it with any extract from any proceedings of the Board or from any record under the control of the Board, or with any statistics concerning the administration of the Hospital, and the Board shall thereupon furnish the same without unreasonable delay

Control and supersession of the Board

13 (*1*) If the Local Government, after such inquiry as it may deem fit, is satisfied—

(*a*) that any of the duties imposed or powers conferred upon the Board by or under this Act has not been performed or exercised or has been performed or exercised in an imperfect, inefficient or unsuitable manner, or

(*b*) that adequate financial provision has not been made for the performance of any such duty or for the proper maintenance of the Hospital,

it may, by order in writing, direct the Board, within such period as may be specified in the order to make arrangements to the satisfaction of the Local Government for the proper performance of any such duty or the proper exercise of any such power, or to make financial provision to the satisfaction of the Local Government for the performance of any such duty or for the maintenance of the Hospital, as the case may be, and the Board shall thereupon comply with such direction

(2) On the failure of the Board to comply with any such direction, the Local Government or any person appointed by the Local Government in this behalf may perform such duty or exercise such power or make such provision, as the case may be, and the Local Government may attach the funds of the Board or any portion thereof and may apply the same to meet any charges incurred in the performance of such duty or the exercise of such power, or in the making of such provision, as the case may be

(3) On the repeated failure of the Board to comply with such directions, or if the Board otherwise exceeds or abuses its powers the Local Government may with the previous sanction of the Governor General in Council by notification in the Gazette of India and in the Bihar and Orissa Gazette, declare the Board to be incompetent or to have exceeded or abused its powers, as the case may be, and direct that the Board shall be superseded for such period as may be specified in the notification

(4) When the Board is superseded under the provisions of sub section (3)—

(a) all Trustees shall, from the date of the publication of the notification under that sub section, vacate their offices as Trustees,

(b) all powers and duties of the Board shall during the period of supersession be exercised and performed by such person or persons as the Local Government may appoint in this behalf

(c) all funds and other property vested in the Board shall during the period of supersession vest in the Local Government on behalf of His Majesty, and

(d) before the expiration of the period of supersession elections shall be held and appointments made for the purpose of reconstituting the Board

(5) If the Local Government is informed by the Governor General in Council that the Board has made default in the repayment of any sum due on account of loan under section 5 or section 6 the Local Government shall forthwith exercise such of its powers under sub sections (1) and (2) as may be necessary for the purpose of enforcing such repayment

14 The Local Government may with the previous sanction of the Governor General in Council by notification in the Gazette of India and in the Bihar and Orissa Gazette declare that with effect from

date as may be specified in the notification, the Board shall be dissolved, and, on the making of such declaration, all funds and other property vested in the Board shall vest in the Local Government on behalf of His Majesty.

Power of the Governor General in Council to make rules

15 The Governor General in Council may make rules[1] prescribing—

(a) the qualifications for being appointed a Trustee,

(b) the circumstances in which and the authority by which any Trustee may be removed,

(c) the filling of any vacancy in the office of a Trustee, whether temporary or otherwise,

(d) the term of office of Trustees, and

(e) the allowances, if any, payable to the Trustees from the funds of the Board on account of attendance at meetings of the Board

Power of the Local Government to make rules.

16. (1) The Local Government may, subject to rules made under section 15, make rules for the purpose of carrying into effect all or any of the provisions of this Act

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely —

(a) for fixing the minimum number of meetings of the Board during any year;

(b) for requiring the maintenance by the Board or the Managing Committee of the Board of a record of all business transacted and the submission of copies of such record to the Local Government or to any other specified authority,

(c) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, to enter into contracts which shall be binding on the Board, and the manner in which such contracts shall be executed;

(d) for sanctioning works in connection with the Hospital and for prescribing the preparation of estimates of such works before work is commenced and the authority by which such estimate shall be sanctioned,

[1] For such rules see Gen R and O, Vol V, p 87

(e) for the procedure to be observed in calling for and considering tenders,

(f) for requiring the preparation of schedules of the staff of officers and servants of the Board

(g) for defining the powers of the Board, the Managing Committee of the Board the Chairman and the Superintendent, respectively, in respect of the appointment, promotion and dismissal of officers and servants of the Board and in respect of the creation and abolition of appointments of such officers or servants

(h) for regulating the grant of leave to officers and servants of the Board and the payment of leave allowances to such officers and servants and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted,

(i) for regulating the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Board,

(j) for prescribing the establishment and maintenance of a provident fund for the officers and servants of the Board, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers or servants, other than Government servants whose services have been lent or transferred to the Board

(k) for prescribing the preparation of budget estimates of the annual receipts and expenditure of the Board and of supplementary estimates of expenditure not included in the budget estimates and the manner in which such estimates shall be sanctioned and published

(l) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, in regard to the expenditure of the funds of the Board whether provision has or has not been made in the budget estimates or by re appropriation for such expenditure and in regard to the re appropriation of estimated savings in the budget estimates of expenditure;

(*m*) for prescribing the maintenance of accounts of the receipts and expenditure of the Board and providing for the audit of such accounts,

(*n*) for prescribing the manner in which payments are to be made by or on behalf of the Board, and the officers by whom orders for making deposits or investments or for withdrawals or disposal of the funds of the Board shall be signed and

(*o*) for determining the custody in which the current account of the Board shall be kept, and the bank or banks at which surplus monies at the credit of the Board may be deposited at interest, and the conditions on which such monies may be otherwise invested

Powers of the Board to make rules

17. Subject to any rules made under sections 15 and 16, the Board may, with the previous sanction of the Local Government, make rules[1] to provide for all or any of the following matters, namely —

(*a*) for the constitution of a Managing Committee and the delegation thereto of any powers exercisable under this Act by the Board,

(*b*) for prescribing the method of appointment, removal and replacement and the term of office of members of the Managing Committee, and for the filling of vacancies therein,

(*c*) for the appointment of the dates, times and places for meetings of the Board and the Managing Committee and for regulating the procedure to be observed at such meetings,

(*d*) for determining the amount and nature of the security, if any, to be demanded from officers or servants of the Board, and the circumstances in which such security may be demanded,

(*e*) for determining the times at which, and the circumstances in which, payments may be made out of the provident fund, and the conditions on which such payments shall relieve the fund from further liability,

(*f*) for determining the contribution, if any, payable from the funds of the Board to the provident fund,

(*g*) for regulating generally all matters incidental to the provident fund and the investment thereof, and

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[1] For rules framed by the Board, see Gazette of India, 1923, Pt I, p 851

(h) for defining the powers and duties of the Secretary of the Board

18 All rules made under this Act shall be made subject to the condition of previous publication, and shall be published in the Gazette of India and in the Bihar and Orissa Gazette, and on such publication shall have effect as if they were enacted in this Act — Rules to be made after previous publication

19 No suit shall be instituted against the Board or any Trustee or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any such officer or servant, in respect of any act purporting to be done under this Act or any rule made hereunder until the expiration of one month after written notice has been delivered or left at the office of the Board or at the office or place of abode of such officer or servant, stating the cause of action, the name and place of abode of the complainant and the relief which he claims, and unless the plaint contains a statement that such notice has been so delivered or left — Notice of suits against the Board, etc

20 No act done or proceedings taken under this Act shall be questioned on the ground merely of— Validation

(a) the existence of any vacancy in or any defect in the constitution of the Board or the Managing Committee or

(b) any person having ceased to be a Trustee or

(c) any omission defect or irregularity not affecting the merits of the case

V of 1912 — 21 For all the purposes of the Indian Lunacy Act 1912 the Hospital shall be deemed to be an asylum established by the Government — Classification of Hospital

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ACT No XIV of 1922 [1]

[29th March 1922]

An Act to repeal the Indian Press Act, 1910 and the Newspapers (Incitements to Offences) Act, 1908, and to make certain provisions in regard to the liability of editors of newspapers, and to facilitate the registration of printers and publishers , and to provide for the seizure and disposal of certain documents

of 1910 / VII of 1908 — WHEREAS it is expedient to repeal the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act 1908 and to make

[1] For Statement of Objects and Reasons see Gazette of India 1921 Pt V, p 138 and for Report of Select Committee see ibid, 1922 Pt V, p 199

further provision in the Press and Registration of Books Act, 1867, for XXV of 1867. the liability of editors of newspapers in civil and criminal proceedings, and to make certain amendments in that Act in order to facilitate the registration of printers and publishers, and to provide in the Sea VIII of 1878 Customs Act, 1878, the Code of Criminal Procedure, 1898, and the V of 1898. Indian Post Office Act 1898 for the seizure and disposal of certain VI of 1898. documents, It is hereby enacted as follows —

Short title and extent

1 (1) This Act may be called the Press Law Repeal and Amendment Act, 1922

(2) It extends to the whole of British India including British Baluchistan and the Sonthal Parganas

Repeal of Act VII of 1908 and Act I of 1910

2 (1) The Newspapers (Incitements to Offences) Act, 1908, and the VII of 1908 Indian Press Act, 1910, are hereby repealed I of 1910.

(2) Nothing in sub section (1) shall be deemed to invalidate any order made under section 12 of the Indian Press Act, 1910, before the I of 1910 commencement of this Act forfeiting any newspaper, book or other document, and any newspaper, book or other document forfeited in accordance with such order shall be deemed to be forfeited in accordance with the provisions of section 99A of the Code of Criminal Procedure, V of 1898 1898, except that no application under section 99B of that Code shall lie in respect of the forfeiture of any such newspaper, book or document, if forfeited more than two months before the commencement of this Act

Amendment of Act XXV of 1867

3. The amendments set forth in the First Schedule shall be made in the Press and Registration of Books Act, 1867 XXV of 1867.

Amendment of Act VIII of 1878

4. The amendments set forth in the Second Schedule shall be made in the Sea Customs Act 1878 VIII of 1878.

Amendment of Act V of 1898

5. The amendments set forth in the Third Schedule shall be made in the Code of Criminal Procedure, 1898 V of 1898.

Amendment of Act VI of 1898

6 The amendments set forth in the Fourth Schedule shall be made in the Indian Post Office Act, 1898 VI of 1898

THE FIRST SCHEDULE

(*See section 3*)

THE PRESS AND REGISTRATION OF BOOKS ACT, 1867 (XXV OF 1867)

1 In section 1 after the definition of British India, add the following definition namely —

Editor

"editor" means the person who controls the selection of the matter that is published in a newspaper,"

and after the definition of "Magistrate" the following definition, namely —

"'newspaper' means any printed periodical work containing public news or comments on public news," Newspaper

shall be inserted

2. In section 5—

(a) For the words 'printed periodical work containing public news or comments on public news' the word "newspaper" shall be substituted,

(b) After the words hereinafter laid down, the following clause shall be inserted namely —

(1) Every copy of every such newspaper shall contain the name of the person who is the editor thereof printed clearly on such copy as the name of the editor of that newspaper,"

(c) Clauses (1), (2) and (3) shall be re numbered (2), (3) and (4),

(d) In clause (2) as re numbered, for the words "before the Magistrate within whose local jurisdiction such work shall be published" the words in person or by agent authorised in this behalf in accordance with rules made under section 20 before a District, Presidency or Sub divisional Magistrate within whose local jurisdiction such newspaper shall be printed or published or such printer or publisher resides, shall be substituted and for the words 'periodical work" the word 'newspaper shall be substituted

(e) After clause (4) as re numbered, the following proviso shall be inserted, namely —

Provided that no person who has not attained majority in accordance with the provisions of the Indian Majority Act, IX of 1875. 1875 or of the law to which he is subject in respect of the attainment of majority shall be permitted to make the declaration prescribed by this section nor shall any such person edit a newspaper

3 In section 7—

(a) After the words custody of such declarations' the words "or, in the case of the editor a copy of the newspaper containing his name printed on it as that of the editor'

(b) After the words to such declaration' the words 'or printed on such newspaper, as the case may be

(c) After the words "in the declaration," the words "or the editor of every portion of that issue of the newspaper of which a copy is produced",

shall be inserted

4. In sections 7, 8 and 9, for the words "periodical work", wherever they occur, the word "newspaper" shall be substituted

5 After section 8 the following section shall be inserted, namely —

Person whose name has been incorrectly published as editor may make a declaration before a Magistrate

"8A If any person, whose name has appeared as editor on a copy of a newspaper, claims that he was not the editor of the issue on which his name has so appeared, he may, within two weeks of his becoming aware that his name has been so published, appear before a District, Presidency or Sub divisional Magistrate and make a declaration that his name was incorrectly published in that issue as that of the editor thereof and if the Magistrate after making such inquiry or causing such inquiry to be made as he may consider necessary is satisfied that such declaration is true he shall certify accordingly, and on that certificate being given the provisions of section 7 shall not apply to that person in respect of that issue of the newspaper

The Magistrate may extend the period allowed by this section in any case where he is satisfied that such person was prevented by sufficient cause from appearing and making the declaration within that period"

6 After section 11 the following section shall be inserted, namely —

Copies of newspaper printed in British India to be delivered *gratis* to Government

"11A The printer of every newspaper in British India shall deliver at such place and to such officer as the Local Government may by notification in the local official Gazette direct, and free of expense to the Government two copies of each issue of such newspaper as soon as it is published"

7. In sections 12 13, 14 and 15, for the words "two years", wherever they occur the words "six months", and for the words "five thousand", wherever they occur, the words "two thousand" shall be substituted

8 In section 15—

(a) After the words "whoever shall" in the two places where they occur the word "edit" shall be inserted

(b) For the words "such periodical work as is hereinbefore described" the word "newspaper" shall be substituted,

(*c*) After the words " shall cause to be ", the word " edited " shall be inserted,

(*d*) For the words " such periodical work ", where they occur for the second time, the word " newspaper " shall be substituted, and

(*e*) For the words " that work ", the words " that newspaper " shall be substituted

9 After section 16 the following section shall be inserted, namely —

Penalty for failure to supply copies of newspapers *gratis* to Government

"16A If any printer of any newspaper published in British India neglects to deliver copies of the same in compliance with section 11A, he shall, on the complaint of the officer to whom copies should have been delivered or of any person authorised by that officer in this behalf, be punishable, on conviction by a Magistrate having jurisdiction in the place where the newspaper was printed, with fine which may extend to fifty rupees for every default "

THE SECOND SCHEDULE

(*See section 4*)

THE SEA CUSTOMS ACT, 1878 (VIII OF 1878)

After section 181 the following sections shall be inserted namely —

Power to detain packages containing certain publications imported into British India

"181A (*1*) The Chief Customs officer or other officer authorised by the Local Government in this behalf may detain any package brought whether by land or sea into British India which he suspects to contain—

(*a*) any newspaper or book as defined in the Press and Registration of Books Act, 1867, or

XXV of 1867

(*b*) any document

containing any seditious matter that is to say any matter the publication of which is punishable under section 124A of the Indian Penal Code and shall forward such package to such officer as the Local Government may appoint in this behalf

XLV of 1860

(*2*) Any officer detaining a package under the provisions of sub-section (*1*) shall where practicable forthwith send by post to the addressee or consignee of such package notice of the fact of such detention

(*3*) The Local Government shall cause the contents of such package to be examined, and if it appears to the Local Government that the

package contains any such newspaper, book or other document, containing any such seditious matter, may pass such orders as to the disposal of the package and its contents as it may deem proper, and, if it does not so appear, shall release the package and its contents unless the same be otherwise liable to seizure under any law for the time being in force

Provided that any person interested in any package detained under the provisions of this section may, within two months from the date of such detention, apply to the Local Government for release of the same, and the Local Government shall consider such application and pass such orders thereon as it may deem to be proper

Provided, further, that, if such application is rejected, the applicant may, within two months from the date of the order rejecting the application, apply to the High Court for release of the package or its contents on the ground that the package did not contain any such newspaper, book or other document containing any such seditious matter

(4) In this section document includes also any painting drawing or photograph, or other visible representation

Procedure for disposal by High Court of applications for release of packages so detained

181B Every application under the second proviso to sub section (3) of section 181A shall be heard and determined, in the manner provided by sections 99D to 99F of the Code of Criminal Procedure, 1898, by a Special Bench of the High Court constituted in the manner provided by section 99C of that Code V of 1898.

Jurisdiction barred

181C No order passed or action taken under section 181A shall be called in question in any Court otherwise than in accordance with the second proviso to sub section (3) of that section

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THE THIRD SCHEDULE

(See section 5)

THE CODE OF CRIMINAL PROCEDURE, 1898 (V OF 1898)

1 After section 99 the following sections shall be inserted, namely —

Power to declare certain publications forfeited and

99A (1) Where—

(a) any newspaper, or book as defined in the Press and Registration of Books Act 1867 or XXV of 1867

(*b*) any document, — to issue search warrants for the same.

wherever printed appears to the Local Government to contain any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code, the Local Government may, by notification in the local official Gazette, stating the grounds of its opinion declare every copy of the issue of the newspaper containing such matter and every copy of such book or other document to be forfeited to His Majesty and thereupon any police officer may seize the same wherever found in British India and any Magistrate may by warrant authorise any police officer not below the rank of sub inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be

XLV of 1860

(*2*) In sub section (*1*) document includes also any painting, drawing or photograph or other visible representation

Application to High Court to set aside order of forfeiture

99B Any person having any interest in any newspaper book or other document in respect of which an order of forfeiture has been made under section 99A may within two months from the date of such order apply to the High Court to set aside such order on the ground that the issue of the newspaper or the book or other document in respect of which the order was made did not contain any seditious matter

Hearing by Special Bench

99C Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges

Order of Special Bench setting aside forfeiture

99D (*1*) On receipt of the application, the Special Bench shall, if it is not satisfied that the issue of the newspaper or the book or other document in respect of which the application has been made, contained seditious matter of the nature referred to in sub section (*1*) of section 99A, set aside the order of forfeiture

(*2*) Where there is a difference of opinion among the Judges forming the Special Bench the decision shall be in accordance with the opinion of the majority of those Judges

Evidence to prove nature or tendency of newspapers

99E On the hearing of any such application with reference to any newspaper any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper which are alleged to be seditious matter

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Procedure for disposal by High Court of applications for release of packages so detained.

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Power to declar certain publications forfeited and

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(*b*) any document, — to issue search warrants for the same.

wherever printed, appears to the Local Government to contain any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code, the Local Government may, by notification in the local official Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to His Majesty, and thereupon any police-officer may seize the same wherever found in British India, and any Magistrate may by warrant authorise any police-officer not below the rank of sub inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be — XLV of 1860.

(2) In sub section (*1*) 'document' includes also any painting, drawing or photograph, or other visible representation

99B Any person having any interest in any newspaper, book or other document, in respect of which an order of forfeiture has been made under section 99A, may within two months from the date of such order, apply to the High Court to set aside such order on the ground that the issue of the newspaper or the book or other document, in respect of which the order was made did not contain any seditious matter — Application to High Court to set aside order of forfeiture

99C Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges — Hearing by Special Bench

99D (*1*) On receipt of the application, the Special Bench shall, if it is not satisfied that the issue of the newspaper or the book or other document, in respect of which the application has been made, contained seditious matter of the nature referred to in sub section (*1*) of section 99A, set aside the order of forfeiture — Order of Special Bench setting aside forfeiture.

(2) Where there is a difference of opinion among the Judges forming the Special Bench the decision shall be in accordance with the opinion of the majority of those Judges

99E On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper which are alleged to be seditious matter — Evidence to prove nature or tendency of newspapers.

package contains any such newspaper, book or other document, containing any such seditious matter, may pass such orders as to the disposal of the package and its contents as it may deem proper, and, if it does not so appear, shall release the package and its contents unless the same be otherwise liable to seizure under any law for the time being in force

Provided that any person interested in any package detained under the provisions of this section may, within two months from the date of such detention, apply to the Local Government for release of the same, and the Local Government shall consider such application and pass such orders thereon as it may deem to be proper

Provided, further, that, if such application is rejected, the applicant may, within two months from the date of the order rejecting the application, apply to the High Court for release of the package or its contents on the ground that the package did not contain any such newspaper, book or other document containing any such seditious matter

(4) In this section document includes also any painting, drawing or photograph, or other visible representation

Procedure for disposal by High Court of applications for release of packages so detained

181B Every application under the second proviso to sub section (3) of section 181A shall be heard and determined, in the manner provided by sections 99D to 99F of the Code of Criminal Procedure, 1898, by a Special Bench of the High Court constituted in the manner provided by section 99C of that Code V of 1898.

Jurisdiction barred

181C No order passed or action taken under section 181A shall be called in question in any Court otherwise than in accordance with the second proviso to sub section (3) of that section

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THE THIRD SCHEDULE

(See section 5)

THE CODE OF CRIMINAL PROCEDURE, 1898 (V OF 1898)

1 After section 99 the following sections shall be inserted, namely —

Power to declare certain publications forfeited and

99A (1) Where—

(a) any newspaper or book as defined in the Press and Registration of Books Act 1867 or XXV of 1867

to the Local Government that the article contained any newspaper, book or other document of the nature described in clause (a) or clause (b) of sub section (1), may pass such orders as to the disposal of the article and its contents as it may deem proper and if it does not so appear, shall release the article and its contents unless the same be otherwise liable to seizure under any law for the time being in force

Provided that any person interested in any article detained under the provisions of clause (a) of sub section (1) may within two months from the date of such detention apply to the Local Government for release of the same and the Local Government shall consider such application and pass such orders thereon as it may deem to be proper

Provided also that, if such application is rejected the applicant may, within two months from the date of the order rejecting the application apply to the High Court for release of the article and its contents on the ground that the article did not contain any newspaper book or other document containing any seditious matter

(4) In this section document includes also any painting drawing or photograph or other visible representation

27C Every application made under the second proviso to sub section (3) of section 27B shall be heard and determined in the manner provided by sections 99D to 99F of the Code of Criminal Procedure 1898 by a Special Bench of the High Court constituted in the manner provided by section 99C of that Code — *Procedure for disposal by High Court of applications for release of newspapers and articles so detained* — *V of 1898*

27D No order passed or action taken under section 27B shall be called in question in any Court otherwise than in accordance with the second proviso to sub section (3) of that section — *Jurisdiction barred*

ACT No XV OF 1922 [1]

[29th March 1922]

An Act to regulate the employment of child labour in ports in British India

WHEREAS it is expedient to regulate the employment of child labour in ports in British India It is hereby enacted as follows —

1 This Act may be called the Indian Ports (Amendment) Act 1922 — *Short title*

1 For Statement of Objects and Reasons see Gazette of India 1922 Pt V p 176

Amendment of section 6, Act XV of 1908

2 In section 6 of the Indian Ports Act, 1908,— XV of 1908

(a) after sub section (1), the following sub section shall be inserted, namely —

"(1A) In addition to any rules which it is empowered to make under sub section (1), the Local Government shall make rules prohibiting the employment at piers, jetties, landing-places, wharves quays, docks, warehouses and sheds of children under the age of twelve years upon the handling of goods," and

(b) in sub section (2), after the word and figure " sub section (1) " the words and figure " and sub section (1A) " shall be inserted

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ACT No XVI OF 1922 [1]

[*30th September, 1922*]

An Act further to amend the Indian Extradition Act, 1903

WHEREAS it is expedient further to amend the Indian Extradition Act, 1903, It is hereby enacted as follows — XV of 1903.

Short title

1. This Act may be called the Indian Extradition (Amendment) Act, 1922

Amendment of the First Schedule, Act XV of 1903

2. In the First Schedule to the Indian Extradition Act 1903, for the words " Desertion from any body of Imperial Service Troops ", the following shall be substituted namely — XV of 1903.

Desertion from any unit of Indian State Forces declared by the Governor General in Council by notification in the Gazette of India, to be a unit desertion from which is an extradition offence "

[1] For Statement of Objects and Reasons see Gazette of India, 1922 Pt. V, p 298

ACT No XVII of 1922[1]

[30th September, 1922]

An Act further to amend the Indian Museum Act, 1910

WHEREAS it is expedient further to amend the Indian Museum Act, 1910, It is hereby enacted as follows — (X of 1910)

1. This Act may be called the Indian Museum (Amendment) Act, 1922 — *Short title*

2. In clause (a) of sub section (1) of section 2 of the Indian Museum Act, 1910,— (X of 1910) — *Amendment of section 2, Act X of 1910.*

(a) for the word "six" the word "seven" shall be substituted,

(b) for sub clause (iv) the following sub clause shall be substituted, namely —

"(iv) the Director, Zoological Survey of India," and

(c) the word "and" at the end of sub clause (v) shall be omitted, sub clause (vi) shall be re numbered sub clause (vii), and after sub clause (v) the following sub clause shall be inserted, namely —

"(vi) the Superintendent Archæological Section of the Museum, and "

ACT No XVIII of 1922[2]

[3rd October 1922]

An Act further to amend the Negotiable Instruments Act 1881

WHEREAS it is expedient further to amend the Negotiable Instruments Act 1881 It is hereby enacted as follows — (XXVI of 1881)

1 This Act may be called the Negotiable Instruments (Amendment) Act 1922 — *Short title*

2 To section 131 of the Negotiable Instruments Act 1881 the following *Explanation* shall be added namely — (XXVI of 1881) — *Amendment of section 131 Act XXVI of 1881*

Explanation —A banker receives payment of a crossed cheque for a customer within the meaning of this section notwithstanding that he credits his customer s account with the amount of the cheque before receiving payment thereof

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1 For Statement of Objects and Reasons see Gazette of India 1922 Pt V, p 299

2 For Statement of Objects and Reasons see Gazette of India 1922 Pt. V. p 243

ACT No XIX of 1922 [1]

[*3rd October, 1922*]

An Act further to amend the Court-fees Act, 1870

WHEREAS it is expedient further to amend the Court fees Act, 1870, It is hereby enacted as follows — VII of 1870

Short title

1. This Act may be called the Court fees (Amendment) Act, 1922

Amendment of section 4, Act VII of 1870

2 In section 4 of the Court fees Act, 1870, for the words ' judgment of two the words and brackets judgments (other than Judgments passed in the exercise of the ordinary original civil jurisdiction of the Court) of one shall be substituted VII of 1870

ACT No XX OF 1922 [2]

[*3rd October, 1922*]

An Act further to amend the Parsi Marriage and Divorce Act, 1865

WHEREAS it is expedient further to amend the Parsi Marriage and Divorce Act, 1865, It is hereby enacted as follows — XV of 1865

Short title

1. This Act may be called the Parsi Marriage and Divorce (Amendment) Act, 1922

Insertion of new section 39 in Act XV of 1865

2 After section 38 of the Parsi Marriage and Divorce Act, 1865 (hereinafter referred to as the said Act) the following section shall be inserted, namely — XV of 1865

Absence of delegates during trial

39 Notwithstanding anything contained in section 16 or section 17, where in the case of a trial in a Parsi Chief Matrimonial Court, not less than nine or in the case of a trial in a Parsi District Matrimonial Court, not less than six, delegates have attended throughout the proceedings the trial shall not be invalid by reason of the absence during any part thereof of the other delegate or delegates

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[1] For Statement of Objects and Reasons see Gazette of India 1922 Pt. V, p. 211

[2] For Statement of Objects and Reasons see Gazette of India 1922 Pt V, p 242.

Where at any stage of a trial in a Parsi Chief Matrimonial Court less than nine, or in a Parsi District Matrimonial Court less than six, delegates are present who have attended throughout the proceedings and the presiding Judge is of opinion that it is not possible without undue delay to secure the attendance throughout the proceedings of nine or six delegates, as the case may be, the proceedings shall be stayed and a new trial shall be held with the aid of fresh delegates."

3. (1) In section 41 of the said Act, for the words "before whom the case is tried" the words "who have attended throughout the trial" shall be substituted. Amendment of section 41, Act XV of 1865.

(2) To the same section the following proviso shall be added, namely:—

"Provided that, where such delegates are equally divided in opinion, the decision on the facts shall be the decision of the presiding Judge."

ACT No. XXI of 1922.[1]

[*3rd October, 1922.*]

An Act further to amend the Official Trustees Act, 1913, and the Administrator General's Act, 1913.

II of 1913. III of 1913. WHEREAS it is expedient further to amend the Official Trustees Act, 1913, and the Administrator General's Act, 1913; It is hereby enacted as follows:—

1. This Act may be called the Official Trustees and Administrator General's Acts Amendment Act, 1922. Short title.

PART I.

II of 1913. 2. To section 2 of the Official Trustees Act, 1913 (hereinafter in this Part referred to as the said Act), after clause (6) the following clause shall be added, namely:— Amendment of section 2, Act II of 1913.

(7) "revenues of the Government" means, in respect of any part of India in which the powers and duties of the Government under this Act are exercised and discharged by a Local Government, the revenues allocated to that Government under the Government of India Act.

[1] For Statement of Objects and Reasons, see Gazette of India, 1922, Pt. V, p. 251.

Amendment of section 15, Act II of 1913.

3. In section 15 of the said Act,—

(a) the words "of India", where they first occur, shall be omitted, and

(b) after the word "revenues", where it occurs for the second time in sub-section (1), and after the same word in sub-section (2), the words "of the Government or" shall be inserted

Amendment of sections 17, 18, 23 and 24, Act II of 1913

4. In sections 17, 18, 23 and 24 of the said Act, the words "of India", wherever they occur, shall be omitted.

PART II.

Amendment of section 2, Act III of 1913.

5. To section 2 of the Administrator General's Act, 1913 (hereinafter in this Part referred to as the said Act), after clause (10) the following clause shall be added, namely — III of 1913.

"(11) 'revenues of the Government' means in respect of any part of India in which the powers and duties of the Government under this Act are exercised and discharged by a Local Government, the revenues allocated to that Government under the Government of India Act"

Amendment of section 39, Act III of 1913

6. In section 39 of the said Act,—

(a) in sub-section (1), the words "of India", where they first occur, shall be omitted and after the word "revenues", where it occurs for the second time, the words "of the Government or" shall be inserted, and

(b) in sub-section (2), after the words "to render" the words "the Government or" shall be inserted

Amendment of sections 42, 43 52 and 53 Act III of 1913.

7. In sections 42, 43, 52 and 53 of the said Act, the words "of India", wherever they occur, shall be omitted.

ACT No XXII OF 1922 [1]

[*5th October, 1922.*]

An Act to provide a penalty for spreading disaffection among the police and for kindred offences.

WHEREAS it is expedient to penalize the spreading of disaffection among the police and other kindred offences; It is hereby enacted as follows —

Short title, extent and commencement.

1. (1) This Act may be called the Police (Incitement to Disaffection) Act, 1922

[1] For Statement of Objects and Reasons, see Gazette of India, 1922, Pt. V, p 62, and for Report of Select Committee, see ibid, 1922, Pt V, p 253

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force in any province or part of a province on such date[1] as the Local Government may, by notification in the local official Gazette, direct

2 In this Act, the expression "member of a police-force" means any person appointed or enrolled for the performance of police duties under any enactment specified in the Schedule — Definition.

3. Whoever intentionally causes or attempts to cause, or does any act which he knows is likely to cause, disaffection towards His Majesty or the Government established by law in British India amongst the members of a police force, or induces or attempts to induce, or does any act which he knows is likely to induce, any member of a police-force to withhold his services or to commit a breach of discipline shall be punished with imprisonment which may extend to six months, or with fine which may extend to two hundred rupees, or with both — Penalty for causing disaffection, etc

Explanation —Expressions of disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, or of disapprobation of the administrative or other action of the Government, do not constitute an offence under this section unless they cause or are made for the purpose of causing or are likely to cause disaffection

4. Nothing shall be deemed to be an offence under this Act which is done in good faith— — Saving of acts done by police associations and other persons for certain purposes

(a) for the purpose of promoting the welfare or interests of any member of a police force by inducing him to withhold his services in any manner authorised by law, or

(b) by or on behalf of any association formed for the purpose of furthering the interests of members of a police force as such where the association has been authorised or recognised by the Government and the act done is done under any rules or articles of the association which have been approved by the Government

5 No Court shall proceed to the trial of any offence under this Act except with the previous sanction, or on the complaint, of the District Magistrate or, in the case of a Presidency-town or the town of Rangoon, of the Commissioner of Police — Sanction to trial of offences by subordinate Courts

1 In Burma from 28th November 1922 see Burma Gazette 1922, Pt I p 1057
In Assam from 25th January, 1923, see Assam Gazette, 1923, Pt. II, p 113

Trial of cases

6. (1) No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act

(2) Notwithstanding anything contained in Chapter XXII of the Code of Criminal Procedure, 1898, no offence under this Act shall be triable summarily. V of 1898

THE SCHEDULE

(See section 2)

Year.	No	Short title
		Acts of the Governor General in Council
1859	XXIV	The Madras District Police Act 1859
1861	V	The Police Act 1861
1887	XV	The Burma Military Police Act 1887
1888	III	The Police Act 1888
1892	V	The Bengal Military Police Act 1892
		Madras Act
1888	III	The Madras City Police Act 1888
		Bombay Acts
1890	IV	The Bombay District Police Act 1890
1902	IV	The City of Bombay Police Act, 1902
		Bengal Acts
1866	II	The Calcutta Suburban Police Act 1866
	IV	The Calcutta Police Act, 1866
1890	III	The Calcutta Port Act, 1890
1920	II	The Eastern Frontier Rifles (Bengal Battalion) Act, 1920
		Burma Act.
1899	IV	The Rangoon Police Act, 1899
		Assam Act
1920	I	The Assam Rifles Act 1920
		Regulation by the Governor General in Council
1858	II	The Andaman and Nicobar Islands Military Police Regulation, 1858

ACT No III of 1923[1]

[*23rd February, 1923*]

An Act to provide for the restriction and control of the transport of cotton in certain circumstances

WHEREAS it is expedient for the purpose of maintaining the quality and reputation of the cotton grown in certain areas in British India to enable the restriction and control of the transport by rail and the import of cotton into those areas, It is hereby enacted as follows —

1. (*1*) This Act may be called the Cotton Transport Act, 1923 Short title and extent

(*2*) It extends to the whole of British India

2 In this Act, unless there is anything repugnant in the subject or context — Definitions

(*a*) "certified copy", in relation to a licence means a copy of the licence certified in the manner described in section 76 of the Indian Evidence Act, 1872, by the authority by which the licence was granted I of 1872

(*b*) "cotton means every kind of unmanufactured cotton, that is to say, ginned and unginned cotton, cotton waste and cotton seed,

(*c*) cotton waste means droppings, strippings fly and other waste products of a cotton mill other than yarn waste,

(*d*) licence means a licence granted under this Act,

(*e*) notified station means a railway station specified in a notification under section 3

(*f*) "prescribed" means prescribed by rules made under this Act, and

(*g*) protected area means an area into which the import of cotton or of any kind of cotton has been prohibited [2][wholly or partly] by a notification under section 3

3 (*1*) The Local Government may for the purpose of maintaining the quality or reputation of the cotton grown in any area in the Province, by notification in the local official Gazette prohibit the import of cotton or of any specified kind of cotton into that area [3][by rail, road, river and sea or by any one or more of such routes] save under, and in accordance with the conditions of a licence Power to issue notification prohibiting import of cotton into protected area

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1 For Statement of Objects and Reasons see Gazette of India 1922 Pt V, p 213 and for Report of Joint Committee see ibid 1923 Pt V p 1

2 These words were inserted by s 2 of the Cotton Transport (Amendment) Act 1925 (34 of 1925)

3 These words were inserted by s 3 ibid

Provided that no such notification shall be deemed to prohibit the import into any protected area of packages containing any kind of cotton and not exceeding ten pounds avoirdupois weight

(2) Any such notification may prohibit the delivery to, and the taking of delivery by, any person, at any specified railway station situated in the protected area, of any cotton, the import of which [1][by rail] into that area is prohibited when such cotton has been consigned from a railway station not situated in that area, unless such person holds a licence for the import [1][by rail] of the cotton into that area

Refusal to carry unlicensed cotton

4 (1) Notwithstanding anything contained in the Indian Railways Act, 1890, or any other law for the time being in force, the station master of any railway station or any other railway servant responsible for the booking of goods or parcels at that station may refuse to receive for carriage at or to forward or allow to be carried on the railway from that station any cotton consigned to a notified station being cotton of a kind of which the delivery at such notified station has been prohibited unless both stations are in the same protected area, or unless the consignor produces a certified copy of a licence for the import of the cotton [2][by rail] into the protected area in which such notified station is situated IX of 1890.

(2) Every certified copy of a licence when so produced shall be attached to the invoice or way bill, as the case may be and shall accompany the consignment to its destination and shall there be dealt with in the prescribed manner

(3) Where by or under any law in force in the territories of any State in India the import [2][by rail] into any area, or the delivery at any railway station, of cotton or of any kind of cotton has been prohibited, the Governor General in Council may by notification in the Gazette of India, declare that the provisions of sub section (1) shall apply in respect of cotton consigned to any such station as if such area and such station were respectively a protected area and a notified station, and as if any licence granted under such law were a licence granted under this Act

[1] These words were inserted by s 3 of the Cotton Transport (Amendment) Act 1925 (34 of 1925)

[2] These words were inserted by s 4 of *ibid*

5. (1) Where any cotton, the import of which [1][by rail] into any protected area has been prohibited, has been consigned to and arrives at a notified station in any such protected area, the station master or other railway servant responsible for the receipt and delivery to the consignee of goods or parcels, as the case may be, at that station shall, unless both the notified station and the railway station from which the cotton has been consigned are situated in the same protected area, refuse to deliver the cotton until he is satisfied that the consignee holds a licence for the import of the cotton [1][by rail] into the protected area in which such notified station is situated, and, if he is not so satisfied, or if within fourteen days the consignee or some person acting on his behalf does not appear in order to take delivery, shall return the cotton to the railway station from which it was consigned, together with an intimation that delivery of the cotton has been refused or has not been taken, as the case may be

Procedure where cotton arrives at notified station

(2) Any station master or other railway servant receiving any cotton returned under sub section (1), or returned with a like intimation from a railway station specified in a notification under sub section (3) of section 4, shall cause to be served on the consignor in any manner authorised by section 141 of the Indian Railways Act, 1890, a notice stating that the cotton has been so returned and requiring the consignor to pay any rate, terminal or other charges due in respect of the carriage of the cotton to and from the railway station to which it was consigned, and such charges shall be deemed to be due from the consignor for all the purposes of section 55 of that Act

IX of 1890

6 Any person who, in contravention of the provisions of this Act or of any [2]notification or rule made hereunder, knowingly takes delivery of any cotton from a notified station or imports, or attempts to import, any cotton into a protected area and any station master or other railway servant who in contravention of the provisions of sub section (1) of section 5, without reasonable excuse, the burden of proving which shall lie upon him delivers any cotton to a consignee or other person, shall be liable to a fine not exceeding one thousand rupees and upon any subsequent conviction to imprisonment which may extend to three months, or to fine which may extend to five thousand rupees, or to both

Penalties

1 These words were inserted by s. 5 of the Cotton Transport (Amendment) Act, 1925 (34 of 1925)

2 For such Notifications see Gen R and O, Vol V, p 90

Power to make rules

7. (1) The Local Government may, by notification in the local official Gazette, make rules to provide for any of the following matters, namely —

(a) the prevention of the import into a protected area by road, river or sea, save under and in accordance with the conditions of a licence, of cotton the import of which into that area has been prohibited [1][wholly or partly] by a notification under section 3,

(b) the terms and conditions to be contained in licences and the authorities by which they may be granted; and

(c) the manner in which licences and certified copies thereof shall be dealt with on and after the delivery of the cotton to which they relate

(2) Any such rules may provide that any contravention thereof or of the conditions of any licence, not otherwise made punishable by this Act, shall be punishable with fine which may extend to five hundred rupees

Previous approval of Local Legislature to issue of notifications and rules

8 No notification under section 3 or rule under section 7 shall be issued by the Local Government of any Governor's Province, unless it has been laid in draft before the Legislative Council of the Province, and has been approved by a Resolution of the Legislative Council, either with or without modification or addition, but upon such approval being given the notification or rule, as the case may be, may be issued in the form in which it has been so approved

Protection for acts done under Act

9. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act

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ACT No IV of 1923 [2]

[23rd February, 1923]

An Act to amend and consolidate the law relating to the regulation and inspection of mines.

WHEREAS it is expedient to amend and consolidate the law relating to the regulation and inspection of mines, It is hereby enacted as

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1 These words were inserted by s 6 of the Cotton Transport (Amendment) Act, 1925 (34 of 1925)

2 For Statement of Objects and Reasons, see Gazette of India 1922, Pt V, p 327 and for the Report of Joint Committee, see ibid, 1923, Pt V, p 25

follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Indian Mines Act, 1923. Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of July, 1924.

2. Nothing in this Act shall be construed to affect the provisions of Saving of Reg. XII of 1887.
XII of 1887. the [1]Upper Burma Ruby Regulation, 1887.

3. In this Act, unless there is anything repugnant in the subject or Definitions.
context,—

ACT No. XXI OF 1931.

(PASSED BY THE INDIAN LEGISLATURE.)

(Received the assent of the Governor General on the 1st October, 1931.)

An Act further to amend the Indian Mines Act, 1923, for a certain purpose.

IV of 1923. WHEREAS it is expedient further to amend the Indian Mines Act, 1923, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Mines (Amendment) Act, 1931. Short title.

IV of 1923. 2. In section 3 of the Indian Mines Act, 1923, after clause (c), the following clause shall be inserted, namely:— Amendment of section 3, Act IV of 1923.

"(cc) 'District Magistrate' means, in a Presidency-town, the person appointed by the Local Government to perform the duties of a District Magistrate under this Act in that town."

Power to make rules

7. (1) The Local Government may, by notification in the local official Gazette, make rules to provide for any of the following matters, namely —

(a) the prevention of the import into a protected area by road, river or sea, save under and in accordance with the conditions of a licence, of cotton the import of which into that area has been prohibited [1][wholly or partly] by a notification under section 3,

(b) the terms and conditions to be contained in licences and the authorities by which they may be granted; and

(c) the manner in which licences and certified copies thereof shall be dealt with on and after the delivery of the cotton to which they relate

Previous approval of Local Legislature to issue of notification and rule

Protection for acts under A

follows :—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Indian Mines Act, 1923. — Short title, extent and commencement.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on the first day of July, 1924.

2. Nothing in this Act shall be construed to affect the provisions of the [1]Upper Burma Ruby Regulation, 1887. — XII of 1887 — Saving of Reg. XII of 1887.

3. In this Act, unless there is anything repugnant in the subject or context,— — Definitions.

(*a*) "agent," when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a manager under this Act;

(*b*) "Chief Inspector" means the Chief Inspector of Mines appointed under this Act;

(*c*) "child" means a person under the age of thirteen years;

(*d*) a person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;

(*e*) "Inspector" means an Inspector of Mines appointed under this Act, and includes a District Magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;

(*f*) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine;

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[1] Burma Code Vol. I.

(*Chapter I.—Preliminary.*)

provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for coke making or the dressing of minerals;

(g) "owner", when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof, but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine subject to any lease, grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner but not so as to exempt the owner from any liability;

(h) "prescribed" means prescribed by regulations, rules or bye-laws;

(i) "qualified medical practitioner" means any person registered under the Medical Act, 1858, or any Act amending the same 21 & 22 Vict. c. 90. or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a qualified medical practitioner for the purposes of this Act;

(j) "regulations", "rules" and "bye-laws" mean respectively regulations, rules and bye-laws made under this Act;

(k) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days; and

(l) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

CHAPTER II

INSPECTORS

4. (*1*) The Governor General in Council may, by notification in the Gazette of India, appoint a duly qualified person to be Chief Inspector of Mines for the whole of British India, and duly qualified persons to be Inspectors of Mines subordinate to the Chief Inspector Chief Inspector and Inspectors

(*2*) No person shall be appointed to be Chief Inspector or an Inspector, or, having been appointed shall continue to hold such office who is or becomes directly or indirectly interested in any mine or mining rights in India

(*3*) The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Local Government

Provided that nothing in this sub section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 19 or section 32

(*4*) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code XLV of 1860.

5. (*1*) The Chief Inspector may, by order in writing prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall, subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which, Inspectors shall exercise their respective powers Functions of Inspectors

(*2*) The Inspector shall give information to owners agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines in respect of which he exercises powers under sub section (*1*) as to all regulations and rules which concern them respectively and as to the places where copies of such regulations and rules may be obtained

6. The Chief Inspector and any Inspector may— Powers of Inspectors of Mines

(*a*) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye laws and of any orders made thereunder are observed in the case of any mine,

(Chapter II —Inspectors)

(b) with such assistants (if any) as he thinks fit, enter, inspect and examine any mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine;

(c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the safety of the persons employed in the mine

Powers of special officer to enter, measure, etc

7. Any person in the service of the Government duly authorised by a special order in writing of the Chief Inspector or of an Inspector in this behalf, may, for the purpose of surveying, levelling or measuring in any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine

Facilities to be afforded to Inspectors.

8. Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 7 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act

Secrecy of information obtained

9. *(1)* All copies of, and extracts from, registers or other records appertaining to any mine, and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 7 in the exercise of his duties thereunder, shall be regarded as confidential

(2) If the Chief Inspector, or an Inspector or any other person referred to in sub section *(1)* discloses to any one, other than a Magistrate or an officer to whom he is subordinate, any such information as aforesaid without the consent of the Governor General in Council or of the Local Government, he shall be guilty of a breach of official trust, and shall be punishable [1][with imprisonment for a term which may extend to one year, or with fine, or with both]

(3) No Court shall proceed to the trial of any offence under this section except on complaint made by order of, or under authority from, the Governor General in Council or the Local Government, or made by a person aggrieved by the offence

[1] These words were substituted for the words "in the manner provided by section 4 of the Indian Official Secrets Act 1889" by s 2 and Sch I of the Repealing and Amending Act, 1925 (37 of 1925)

CHAPTER III

MINING BOARDS AND COMMITTEES

10. (1) The Local Government may constitute for the province, or for any part of the province, or for any group or class of mines in the province, a Mining Board consisting of— Mining Boards

(a) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the Local Government to act as chairman,

(b) the Chief Inspector or an Inspector,

(c) two persons, neither of whom shall be the Chief Inspector nor an Inspector nominated by the Local Government, of whom one shall be a person qualified to represent the interests of persons employed in mines,

(d) two persons nominated by owners of mines or their representatives in such manner as may be prescribed

(2) The chairman shall appoint a person to act as secretary to the Board

(3) The Local Government may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member

11. (1) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of— Committees

(a) a chairman nominated by the Local Government or by such officer or authority as the Local Government may authorise in this behalf,

(b) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee; and

(c) two persons of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Local Government to represent the interests of the persons employed in the mine

(2) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section

(3) Where an owner, agent or manager fails to exercise his power of nomination under clause (c) of sub section (1), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it

(4) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Local Government

(5) On receiving such report the Local Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Local Government may proceed to review such decision and to pass such orders in the matter as it may think fit. If an objection is lodged by the Chief Inspector, notice of the same shall forthwith be given to the owner, agent or manager of the mine

(6) The Local Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of the expenses of the inquiry including such remuneration

Powers of Mining Boards.

12 (1) Any Mining Board constituted under section 10 and any Committee constituted under section 11 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it

(2) Every Mining Board constituted under section 10 and every Committee appointed under section 11 shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code

V of 1908.

XLV of 1860.

Recovery of expenses.

13 The Local Government may direct that the expenses of any inquiry conducted by a Mining Board constituted under section 10 or by a Committee appointed under section 11 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so

directed to be paid may, on application by the Chief Inspector or an Inspector to a Magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to such [1][owner or agent]

CHAPTER IV

MINING OPERATIONS AND MANAGEMENT OF MINES

Notice to be given of mining operations

14. The owner, agent or manager of a mine shall, in the case of an existing mine within one month from the commencement of this Act, or, in the case of a new mine, within three months after the commencement of mining operations, give to the District Magistrate of the district in which the mine is situated notice in writing in such form and containing such particulars relating to the mine as may be prescribed

Managers

15 (*1*) Save as may be otherwise prescribed, every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager

(*2*) If any mine is worked without there being a manager for the mine as required by sub section (*1*), the owner and agent shall each be deemed to have contravened the provisions of this section

Duties and responsibilities of owners agents and managers

16 (*1*) The owner agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations, rules and bye laws and of any orders made thereunder

(*2*) In the event of any contravention of any such provisions by any person whomsoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention

[1] These words were substituted for the words "owner agent or manager" by s. 2 and Sch I of the Repealing and Amending Act 1925 (37 of 1925)

Provided that the owner or agent shall not be so deemed if he proves—

(a) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine, and

(b) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties, and

(c) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

CHAPTER V

PROVISIONS AS TO HEALTH AND SAFETY

Conservancy.

17. There shall be provided and maintained for every mine latrine and urinal accommodation of such kind and on such scale, and such supply of water fit for drinking, as may be prescribed.

Medical appliances.

18. At every mine in respect of which the Local Government may, by notification in the local official Gazette, declare this section to apply,[1] such supply of ambulances or stretchers, and of splints, bandages and other medical requirements, as may be prescribed, shall be kept ready at hand in a convenient place and in good and serviceable order.

Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.

19. (1) If, in any respect which is not provided against by any express provision of this Act or of the regulations, rules or bye-laws or of any orders made thereunder, it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

[1] The provisions of this section were applied to all coal mines and to mines other than coal mines at which more than 20 persons are employed in Bengal, *see* Calcutta Gazette, 1925, Pt. I, p. 960; provisions similarly applied to Baluchistan, *see* Bal. Local Rules and Orders, Pt. II, p. 244.

(2) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(3) Where an order has been made under sub-section (2) by an Inspector, the owner, agent or manager of the mine may within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(4) The Chief Inspector or the Inspector making a requisition under sub-section (1) or an order under sub-section (2), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (3), shall forthwith report the same to the Local Government and shall inform the owner, agent or manager of the mine that such report has been so made.

(5) If the owner, agent or manager of the mine objects to a requisition made under sub-section (1) or to an order made by the Chief Inspector under sub-section (2) or sub-section (3) he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing stating the grounds thereof, to the Local Government which shall refer the same to a Committee.

(6) Every requisition made under sub-section (1) or order made under sub-section (2), or sub-section (3) to which objection is made under sub-section (5), shall be complied with pending the receipt at the mine of the decision of the Committee:

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (1) pending its decision on the objection.

(7) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898. V of 1898

20. When any accident occurs in or about a mine causin[illegible] life or serious bodily injury, or when an accidental explosion, [illegible] outbreak of fire or irruption of water occurs in or about a [illegible]

(Chapter V.—Provisions as to Health and Safety.—Chapter VI.—Hours and Limitation of Employment.)

owner, agent or manager of the mine shall give such notice of the occurrence to such authorities, and in such form, and within such time, as may be prescribed.

Power of Government to appoint court of inquiry in cases of accidents.

21. (1) When any accidental explosion, ignition, outbreak of fire or irruption of water or other accident has occurred in or about any mine, the Local Government, if it is of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a competent person to hold such inquiry, and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(2) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, (V of 1908.) for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code. (XLV of 1860.)

(3) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to the Local Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

Publication of reports.

22. The Local Government may cause any report submitted by a Committee under section 11 or by a court of inquiry under section 21 to be published at such time and in such manner as it may think fit.

CHAPTER VI

HOURS AND LIMITATION OF EMPLOYMENT.

Hours of employment.

23. No person shall be employed in a mine—

(a) on more than six days in any one week,

(b) if he works above ground, for more than sixty hours in any one week,

(c) if he works below ground, for more than fifty-four hours in any one week.

(*Chapter VI.—Hours and Limitation of Employment.—Chapter VII.—Regulations, Rules and Bye-laws.*)

24. Nothing in section 23 shall apply to persons who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity. Supervising staff.

25. In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, the manager may, subject to the provisions of section 19, permit persons to be employed in contravention of section 23 on such work as may be necessary to protect the safety of the mine or of the persons employed therein: Exemption from provisions regarding employment.

Provided that, where such occasion arises, a record of the fact shall immediately be made by the manager and shall be placed before the Chief Inspector or the Inspector at his next inspection of the mine.

26. No child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground. Children.

27. (*1*) If any question arises between the Chief Inspector or the Inspector and the manager of any mine as to whether any person is a child, the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner. Disputes as to age.

(*2*) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (*1*) shall for the purposes of this Act be conclusive evidence as to the age of the person to whom it relates.

28. For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine, of their hours of work, of their days of rest, and of the nature of their respective employments. Register of employees.

CHAPTER VII.

REGULATIONS, RULES AND BYE-LAWS.

29. The Governor General in Council may, by notification in the Gazette of India, make regulations[1] consistent with this Act for all or any of the following purposes, namely:— Power of Governor General in Council to make regulations.

(*a*) for prescribing the qualifications to be required by a person for appointment as Chief Inspector or Inspector;

[1] For the Indian Coal Mines Regulations, 1926, see Gazette of India, 1926, Pt. I, p. 965, and for the Indian Metalliferous Regulations, 1926, see *ibid*, p. 1004.

(*Chapter VII.—Regulations, Rules and Bye-laws.*)

(*b*) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;

(*c*) for prescribing the duties of owners, agents and managers of mines and of persons acting under them;

(*d*) for prescribing the qualifications of managers of mines and of persons acting under them;

(*e*) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;

(*f*) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;

(*g*) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications;

(*h*) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them, and for the suspension and cancellation of certificates of competency;

(*i*) for regulating, subject to the provisions of the Indian Explosives Act, 1884, and of any rules made thereunder, the storage and use of explosives; IV of 1884.

(*j*) for prohibiting, restricting or regulating the employment in mines or in any class of mines of women either below ground or on particular kinds of labour which are attended by danger to the life, safety or health of such women;

(*k*) for providing for the safety of the persons employed in a mine, their means of entrance thereinto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;

(*l*) for providing for the safety of the roads and working places in mines, including the siting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine;

(Chapter VII.—Regulations, Rules and Bye laws.)

(m) for providing for the ventilation of mines and the action to be taken in respect of dust and noxious gases,

(n) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling purposes,

(o) for requiring and regulating the use of safety lamps in mines;

(p) for providing against dangers arising out of the accumulation of water in mines,

(q) for prescribing the notices of accidents and dangerous occurrences and the notices reports and returns of mineral output persons employed and other matters provided for by regulations to be furnished by owners, agents and managers of mines and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished the particulars to be contained in them, and the time within which they are to be submitted;

(r) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record,

(s) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines,

(t) for prescribing the form of and the particulars to be contained in the notice to be given by the owner agent or manager of a mine under section 14 and

(u) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890 or of any public work or classes of public works which the Local Government may by general or special order, specify in this behalf

IX of 1890.

Power of Local Government to make rules

30 The Local Government may subject to the control of the Governor General in Council by notification in the local official Gazette, make rules consistent with this Act for all or any of the following purposes namely —

(a) for providing for the appointment of chairmen and members of Mining Boards and for regulating the procedure of such Boards,

(*Chapter VII.—Regulations, Rules and Bye-laws.*)

(*b*) for providing for the appointment of courts of inquiry under section 21, for regulating the procedure and powers of such courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such courts from the manager, owner or agent of the mine concerned;

(*c*) for prescribing the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking water, the supply and maintenance of medical appliances and comforts, the formation and training of rescue brigades, and the training of men in ambulance work;

(*d*) for defining the persons who shall, for the purposes of section 24, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity;

(*e*) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to be more than thirteen years of age and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;

(*f*) for prescribing the form of register required by section 28;

(*g*) for prescribing abstracts of this Act [1][and of the regulations and rules] and the vernacular in which the abstracts and [2]* * * bye-laws shall be posted as required by sections 32 and 33;

(*h*) for requiring the fencing of any mine or part of a mine, whether the same is being worked or not, where such fencing is necessary for the protection of the public;

(*i*) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in His Majesty or any local authority or railway company as defined in the Indian Railways Act, 1890; IX of 1890

(*j*) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to

[1] These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1925 (37 of 1925).

[2] The words "the regulations, rules and" were omitted by *ibid*.

(*Chapter VII —Regulations, Rules and Bye-laws*)

be contained in them, and the times within which they are to be submitted, and

(*h*) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act

31. (*1*) The power to make regulations and rules conferred by sections 29 and 30 is subject to the condition of the regulations and rules being made after previous publication — **Prior publication of regulations and rules.**

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clauses Act, 1897, as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information — X of 1897

(*3*) Before the draft of any regulation or rule is published under this section it shall be referred in the case of a regulation to every Mining Board constituted in British India, and in the case of a rule to every Mining Board constituted in the province, and the regulation or rule shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions

(*4*) Regulations and rules shall be published in the Gazette of India and the local official Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act

32. (*1*) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine — **Bye laws.**

(*2*) If any such owner, agent or manager—

(*a*) fails to submit within two months a draft of bye laws after being called upon to do so by the Chief Inspector or Inspector, or

(*b*) submits a draft of bye laws which is not in the opinion of the Chief I[illegible]

(Chapter VII —Regulations, Rules and Bye laws)

the Chief Inspector or Inspector may—

(i) propose a draft of such bye laws as appear to him to be sufficient, or

(ii) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient,

and shall send such draft bye laws or draft amendments to the owner, agent or manager, as the case may be, for consideration

(3) If within a period of two months from the date on which any draft bye laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub section *(2)*, the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye laws to be made under sub section *(1)*, the Chief Inspector or Inspector shall refer the draft bye laws for settlement to the Mining Board or, where there is no Mining Board, to such officer or authority as the Local Government may, by general or special order, appoint in this behalf

(4) *(a)* When such draft bye laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer or authority as aforesaid, a copy of the draft bye laws shall be sent by the Chief Inspector or Inspector to the Local Government for approval

(b) The Local Government may make such modifications of the draft bye laws as it thinks fit

(c) Before the Local Government approves the draft bye laws, whether with or without modifications, there shall be published, in such manner as the Local Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye laws may be obtained, and of the time (which shall not be less than thirty days) within which any *objections with reference to the draft bye laws, made by or on* behalf of persons affected, should be sent to the Local Government

(d) Every objection shall be in writing and shall state—

(i) the specific grounds of objection, and

(ii) the omissions, additions or modifications asked for

(e) The Local Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Local Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye laws, in English and in such vernacular or vernaculars as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye laws may be conveniently read or seen by the persons employed, and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) The Local Government may, by order in writing, rescind, in whole or in part, any bye-law so made, and thereupon such bye law shall cease to have effect accordingly.

Posting up of extracts from Act regulations, etc.

33. There shall be kept posted up at or near every mine, in English and in such vernacular or vernaculars as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

CHAPTER VIII

Penalties and Procedure

Obstruction

34. (1) Whoever obstructs the Chief Inspector, an Inspector or any person authorised under section 7 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, an Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent, any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

(*Chapter VIII —Penalties and Procedure*)

Falsification of records, etc

35. Whoever—

(*a*) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(*b*) knowingly uses as true any such counterfeit or false certificate, or

(*c*) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or

(*d*) falsifies any plan or register or record the maintenance of which is required by or under this Act, or

(*e*) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both

Omission to furnish plans, etc

36. Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees

Contravention of provisions regarding employment of labour

37. Whoever, save as permitted by section 25, contravenes any provision of this Act or of any regulation, rule or bye law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with fine which may extend to five hundred rupees

Notice of accidents

38 Whoever, in contravention of the provisions of section 20, fails to give notice of any accidental occurrence shall, if the occurrence results in serious bodily injury, be punishable with fine which may extend to five hundred rupees, or, if the occurrence results in loss of life, be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both

(*Chapter VIII.—Penalties and Procedure.*)

39. Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing contravention, with a further fine which may extend to one hundred rupees for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction. Disobedience of orders.

40. (*1*) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable, if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both; or, if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both; or, if such contravention otherwise causes injury or danger to workers or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both. Contravention of law with dangerous results.

(*2*) Where a person having been convicted under this section is again convicted thereunder he shall be punishable with double the punishment provided by sub-section (*1*).

(*3*) Any Court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death, to his legal representative:

Provided that if the fine is imposed in a case which is subject to appeal no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

41. No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector. Prosecution of owner, agent or manager.

(Chapter VIII.—Penalties and Procedure.—Chapter IX.—Miscellaneous.)

Limitation of prosecutions. 42. No Court shall take cognizance of any offence under this Act unless complaint thereof has been made within six months of the date on which the offence is alleged to have been committed.

Cognizance of offences. 43. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

Reference to Mining Board or Committee in lieu of prosecution in certain cases. 44. (1) If the Court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee, it may stay the criminal proceedings and report the matter to the Local Government with a view to such reference being made.

(2) On receipt of a report under sub-section (1), the Local Government may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

CHAPTER IX

MISCELLANEOUS

Decision of question whether a mine is under this Act. 45. If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Local Government may decide the question, and a certificate signed by a Secretary to the Local Government shall be conclusive on the point.

Power to exempt from operation of Act. 46. (1) The Governor General in Council may, by notification in the Gazette of India, exempt[1] any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any specified provisions of this Act:

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 26 unless it is also exempted from the operation of all the other provisions of this Act.

(2) On the occurrence of any public emergency, the Local Government may, by an order in writing, confer any exemption which might

[1] For exemption of mines and groups of mines *see* Gazette of India, 1926, Pt. I, p. 1402; *ibid*, 1927, Pt. I, p. 1090; *ibid*, 1928, Pt. I, p. 336.

be conferred by the Governor General in Council under sub-section (1). When such an order is made, a copy thereof shall forthwith be sent to the Governor General in Council.

47. The Governor General in Council and every Local Government may reverse or modify any order passed under this Act by any authority subject to his or its control, as the case may be. Power to alter or rescind orders.

48. This Act shall apply to mines belonging to the Crown. Application of Act to Crown mines.

49. No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act. Saving.

50. [*Repeals.*] *Repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).*

[THE SCHEDULE.]

[Enactments Repealed.] Repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).

ACT No. V OF 1923.[1]

[23rd February, 1923.]

An Act to consolidate and amend the law relating to steam-boilers.

WHEREAS it is expedient to consolidate and amend the law relating to steam boilers; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Boilers Act, 1923. Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date as the Governor General in Council may, by notification[2] in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "accident" means an explosion of a boiler or steam-pipe or any damage to a boiler or steam-pipe which is calculated to weaken the strength thereof so as to render it liable to explode;

1 For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 249, and for Report of Joint Committee, *see ibid*, 1923, Pt. V, p. 15.
2 This Act came into force from 1st January 1924, *see* Notification No. 4-61, dated 4th December 1923, Gen. R. and O., Vol. V, p. 134.

(b) "*boiler*" *means any closed vessel exceeding five gallons in* capacity which is used expressly for generating steam under pressure ~~for use outside such vessel~~, and includes any mounting or other fitting attached to such vessel, which is wholly or partly under pressure when steam is shut off;

(c) "Chief Inspector" and "Inspector" mean, respectively, a person appointed to be a Chief Inspector and an Inspector under this Act,

(d) "owner" includes any person using a boiler as agent of the owner thereof and any person using a boiler which he has hired or obtained on loan from the owner thereof,

(e) "prescribed" means prescribed by regulations or rules made under this Act,

(f) "steam-pipe" means any main pipe exceeding three inches in internal diameter through which steam passes directly from a boiler to a prime mover or other first user, and includes any connected fitting of a steam-pipe, and

(g) "structural alteration, addition or renewal" shall not be deemed to include any renewal or replacement of a petty nature when the part or fitting used for replacement is not inferior in strength, efficiency or otherwise to the replaced part or fitting

Limitation of application.

3 (1) Nothing in this Act shall apply in the case of any boiler or steam-pipe—

(a) in any steam ship as defined in section 3 of the [1]Indian Steamships Act, 1884, or in any steam-vessel as defined in section 2 of the Inland Steam-vessels Act, 1917, or VII of 1884. I of 1917.

(b) belonging to or under the control of His Majesty's Navy or the Royal Indian Marine Service

(2) The Governor General in Council may, by notification in the Gazette of India, declare that the provisions of this Act shall not apply in the case of boilers or steam-pipes, or of any specified class of boilers or steam pipes, belonging to or under the control of any railway[2] administered by the Government or by any railway company as defined in clause (5) of section 3 of the Indian Railways Act, 1890 IX of 1890.

[1] See now the Indian Merchant Shipping Act 1923 (21 of 1923) s. 2

[2] For list of Railways notified under this section, see Gen R. & O. Vol V, p. 134

4. The Governor General in Council may, by notification in the Gazette of India, exclude[1] any specified area from the operation of all or any specified provisions of this Act. Power to limit extent.

5. (*1*) The Local Government may appoint[2] such persons as it thinks fit to be Inspectors for the province for the purposes of this Act, and may define the local limits within which each Inspector shall exercise the powers and perform the duties conferred and imposed on Inspectors by or under this Act. Appointment of Chief Inspectors and Inspectors.

(*2*) The Local Government shall likewise appoint[3] a person to be Chief Inspector for the province, who may, in addition to the powers and duties conferred or imposed on the Chief Inspector by or under this Act, exercise any power or perform any duty so conferred or imposed on Inspectors.

(*3*) Every Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

6. Save as otherwise expressly provided in this Act, no owner of a boiler shall use the boiler or permit it to be used— Prohibition of use of unregistered or uncertificated boiler.

(*a*) unless it has been registered in accordance with the provisions of this Act;

(*b*) in the case of any boiler which has been transferred from one province to another, until the transfer has been reported in the prescribed manner;

(*c*) unless a certificate or provisional order authorising the use of the boiler is for the time being in force under this Act;

(*d*) at a pressure higher than the maximum pressure recorded in such certificate or provisional order;

(*e*) where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates of competency, unless the boiler is in charge of a person holding the certificate required by such rules.

Provided that any boiler registered, or any boiler certified or licensed, under any Act hereby repealed shall be deemed to have been registered or certified, as the case may be, under this Act.

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1 The Andaman and Nicobar Islands have been excluded from the operation of the provisions of this Act, see Notification No. G (B)—10, dated 21st June, 1924, Gen. R. and O., Vol. V, p. 135.

2 For such appointment in Coorg, see Coorg District Gazette, 1925, Pt. I, p. 31, and *ibid*, 1926, Pt. I, p. 94.

3 For appointment under this sub-section in Coorg, see *ibid*.

Provided, further, that, until the expiration of twelve months from the commencement of this Act, nothing in this section shall be deemed to prohibit the use of any boiler in any local area in which the registration of, or a certificate or licence for the use of, a boiler was not previously required by law

Registration 7. (1) The owner of any boiler which is not registered under the provisions of this Act may apply to the Inspector to have the boiler registered Every such application shall be accompanied by the prescribed fee

(2) On receipt of an application under sub section (1), the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days notice of the date so fixed

(3) On the said date the Inspector shall proceed to measure and examine the boiler and to determine in the prescribed manner the maximum pressure, if any, at which such boiler may be used, and shall report the result of the examination to the Chief Inspector in the prescribed form

(4) The Chief Inspector, on receipt of the report, may—

(a) register the boiler and assign a register number thereto either forthwith or after satisfying himself that any structural alteration, addition or renewal which he may deem necessary has been made in or to the boiler or any steam pipe attached thereto, or

(b) refuse to register the boiler

Provided that where the Chief Inspector refuses to register a boiler, he shall forthwith communicate his refusal to the owner of the boiler together with the reasons therefor

(5) The Chief Inspector shall, on registering the boiler, order the issue to the owner of a certificate in the prescribed form authorising the use of the boiler for a period not exceeding twelve months at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act

(6) The Inspector shall forthwith convey to the owner of the boiler the orders of the Chief Inspector and shall in accordance therewith issue to the owner any certificate of which the issue has been ordered,

and, where the boiler has been registered, the owner shall within the prescribed period cause the register number to be permanently marked thereon in the prescribed manner

8. (*1*) A certificate authorising the use of a boiler shall cease to be in force— Renewal of certificate

(*a*) on the expiry of the period for which it was granted, or

(*b*) when any accident occurs to the boiler, or

(*c*) when the boiler is moved, the boiler not being a vertical boiler the heating surface of which is less than two hundred square feet, or a portable or vehicular boiler, or

(*d*) when any structural alteration, addition or renewal is made in or to the boiler, or

(*e*) if the Chief Inspector in any particular case so directs, when any structural alteration, addition, or renewal is made in or to any steam pipe attached to the boiler, or

(*f*) on the communication to the owner of the boiler of an order of the Chief Inspector or Inspector prohibiting its use on the ground that it or any steam pipe attached thereto is in a dangerous condition

(*2*) Where an order is made under clause (*f*) of sub section (*1*), the grounds on which the order is made shall be communicated to the owner with the order

(*3*) When a certificate ceases to be in force, the owner of the boiler may apply to the Inspector for a renewal thereof for such period not exceeding twelve months as he may specify in the application

(*4*) An application under sub section (3) shall be accompanied by the prescribed fee and, on receipt thereof, the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt for the examination of the boiler and shall give the owner thereof not less than ten days notice of the date so fixed

Provided that where the certificate has ceased to be in force owing to the making of any structural alteration addition or renewal, the Chief Inspector may dispense with the payment of any fee

(*5*) On the said date the Inspector shall examine the boiler in the prescribed manner and if he is satisfied that the boiler and the steam-pipe or steam pipes attached thereto are in good condition shall issue a renewed certificate authorising the use of the boiler for such period

not exceeding twelve months and at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act

Provided that if the Inspector—

(*a* proposes to issue any certificate—

(i) having validity for a less period than the period entered in the application, or

(ii) increasing or reducing the maximum pressure at which the boiler may be used, or

(*b*) proposes to order any structural alteration, addition or renewal to be made in or to the boiler or any steam pipe attached thereto, or

(*c*) is of opinion that the boiler is not fit for use, the Inspector shall, within forty eight hours of making the examination, inform the owner of the boiler in writing of his opinion and the reasons therefor, and shall forthwith report the case for orders to the Chief Inspector

(*6*) The Chief Inspector, on receipt of a report under sub section (*5*), may, subject to the provisions of this Act and of the regulations made hereunder, order the renewal of the certificate in such terms and on such conditions, if any, as he thinks fit, or may refuse to renew it

Provided that where the Chief Inspector refuses to renew a certificate, he shall forthwith communicate his refusal to the owner of the boiler, together with the reasons therefor

(*7*) Nothing in this section shall be deemed to prevent an owner of a boiler from applying for a renewed certificate therefor at any time during the currency of a certificate

Provisional orders

9. Where the Inspector reports the case of any boiler to the Chief Inspector under sub section (*3*) of section 7 or sub section (*5*) of section 8, he may, if the boiler is not a boiler the use of which has been prohibited under clause (*f*) of sub section (*1*) of section 8, grant to the owner thereof a provisional order in writing permitting the boiler to be used at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act pending the receipt of the orders of the Chief Inspector Such provisional order shall cease to be in force—

(*a*) on the expiry of six months from the date on which it is granted, or

(*b*) on receipt of the orders of the Chief Inspector, or

(*c*) in any of the cases referred to in clauses (*b*), (*c*), (*d*), (*e*) and (*f*) of sub-section (*1*) of section 8,

and on so ceasing to be in force shall be surrendered to the Inspector

10 (*1*) Notwithstanding anything hereinbefore contained, when the period of a certificate relating to a boiler has expired the owner shall, provided that he has applied before the expiry of that period for a renewal of the certificate, be entitled to use the boiler at the maximum pressure entered in the former certificate pending the issue of orders on the application — **Use of boiler pending grant of certificate**

(*2*) Nothing in sub section (*1*) shall be deemed to authorise the use of a boiler in any of the cases referred to in clauses (*b*), (*c*), (*d*), (*e*) and (*f*) of sub section (*1*) of section 8 occurring after the expiry of the period of the certificate

11. The Chief Inspector may at any time withdraw or revoke any certificate or provisional order on the report of an Inspector or otherwise— **Revocation of certificate or provisional order**

(*a*) if there is reason to believe that the certificate or provisional order has been fraudulently obtained or has been granted erroneously or without sufficient examination or

(*b*) if the boiler in respect of which it has been granted has sustained injury or has ceased to be in good condition or

(*c*) where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates of competency, if the boiler is in charge of a person not holding the certificate required by such rules, or

(*d*) where no such rules have been made if the boiler is in charge of a person who is not having regard to the condition of the boiler, in the opinion of the Chief Inspector competent to have charge thereof

Provided that where the Chief Inspector withdraws or revokes a certificate or provisional order on the ground specified in clause (*d*), he shall communicate to the owner of the boiler his reasons in writing for the withdrawal or revocation and the order shall not take effect until the expiry of thirty days from the receipt of such communication

12 No structural alteration addition or renewal shall be made in or to any boiler registered under this Act unless such alteration, addition or renewal has been sanctioned in writing by the Chief Inspector — **Alterations and renewals to boilers.**

Alterations and renewals to steam pipes

13. Before the owner of any boiler registered under this Act makes any structural alteration, addition or renewal in or to any steam pipe attached to the boiler, he shall transmit to the Chief Inspector a report in writing of his intention, and shall send therewith such particulars of the proposed alteration, addition or renewal as may be prescribed

Duty of owner at examination

14 (*1*) On any date fixed under this Act for the examination of a boiler, the owner thereof shall be bound—

(*a*) to afford to the Inspector all reasonable facilities for the examination and all such information as may reasonably be required of him,

(*b*) to have the boiler properly prepared and ready for examination in the prescribed manner, and

(*c*) in the case of an application for the registration of a boiler, to provide such drawings, specifications, certificates and other particulars as may be prescribed

(*2*) If the owner fails, without reasonable cause, to comply with the provisions of sub section (*1*), the Inspector shall refuse to make the examination and shall report the case to the Chief Inspector who shall, unless sufficient cause to the contrary is shown, require the owner to file a fresh application under section 7 or section 8, as the case may be, and may forbid him to use the boiler notwithstanding anything contained in section 10

Production of certificates, etc.

15. The owner of any boiler who holds a certificate or provisional order relating thereto shall, at all reasonable times during the period for which the certificate or order is in force, be bound to produce the same when called upon to do so by a District Magistrate, Commissioner of Police or Magistrate of the first class having jurisdiction in the area in which the boiler is for the time being, or by the Chief Inspector or by an Inspector or by any Inspector appointed under the Indian Factories Act, 1911, or by any person specially authorised in writing by a District Magistrate or Commissioner of Police

Transfer of certificates etc

16 If any person becomes the owner of a boiler during the period for which a certificate or provisional order relating thereto is in force, the preceding owner shall be bound to make over to him the certificate or provisional order

Powers of entry.

17. An Inspector may, for the purpose of inspecting or examining a boiler or any steam pipe attached thereto or of seeing that any pro-

vision of this Act or of any regulation or rule made hereunder has been or is being observed, at all reasonable times enter any place or building within the limits of the area for which he has been appointed in which he has reason to believe that a boiler is in use

18 (1) If any accident occurs to a boiler or steam pipe, the owner or person in charge thereof shall within twenty four hours of the accident, report the same in writing to the Inspector Every such report shall contain a true description of the nature of the accident and of the injury, if any, caused thereby to the boiler or to the steam pipe or to any person, and shall be in sufficient detail to enable the Inspector to judge of the gravity of the accident — **Report of accidents**

(2) Every person shall be bound to answer truly to the best of his knowledge and ability every question put to him in writing by the Inspector as to the cause, nature or extent of the accident

19 Any person considering himself aggrieved by— **Appeals to Chief Inspector**

(a) an order made or purporting to be made by an Inspector in the exercise of any power conferred by or under this Act, or

(b) a refusal of an Inspector to make any order or to issue any certificate which he is required or enabled by or under this Act to make or issue

may within thirty days from the date on which such order or refusal is communicated to him, appeal against the order or refusal to the Chief Inspector

20 Any person considering himself aggrieved by an original or appellate order of the Chief Inspector— **Appeals to appellate authority**

(a) refusing to register a boiler or to grant or renew a certificate in respect of a boiler or

(b) refusing to grant a certificate having validity for the full period applied for or

(c) refusing to grant a certificate authorising the use of a boiler at the maximum pressure desired or

(d) withdrawing or revoking a certificate or provisional order, or

(e) reducing the amount of pressure specified in any certificate or the period for which such certificate has been granted, or

(f) ordering any structural alteration, addition or renewal to be made in or to a boiler or steam pipe or refusing sanction to the making of any structural alteration, addition or renewal in or to a boiler,

may within thirty days of the communication to him of such order, lodge with the Chief Inspector an appeal to an appellate authority to be constituted by the Local Government under this Act

Finality of orders

21 An order of an appellate authority under section 20 and save as otherwise provided in sections 19 and 20 an order of the Chief Inspector or of an Inspector shall be final and shall not be called in question in any Court

Minor penalties

22 Any owner of a boiler who refuses or without reasonable excuse neglects—

(i) to surrender a provisional order as required by section 9 or

(ii) to produce a certificate or provisional order when duly called upon to do so under section 15, or

(iii) to make over to the new owner of a boiler a certificate or provisional order as required by section 16

shall be punishable with fine which may extend to one hundred rupees

Penalties for illegal use of boiler

23 Any owner of a boiler who in any case in which a certificate or provisional order is required for the use of the boiler under this Act, uses the boiler either without any such certificate or order being in force or at a higher pressure than that allowed thereby, shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence with an additional fine which may extend to one hundred rupees for each day after the first day in regard to which he is convicted of having persisted in the offence

Other penalties

24 Any person who—

(a) uses or permits to be used a boiler of which he is the owner and which has been transferred from one province to another without such transfer having been reported as required by section 6 or

(b) being the owner of a boiler fails to cause the registered number allotted to the boiler under this Act to be marked on the boiler as required by sub section (6) of section 7 or

(c) makes any structural alteration, addition or renewal in or to a boiler without first obtaining the sanction of the Chief Inspector when so required by section 12, or to a steam pipe without first informing the Chief Inspector, when so required by section 13, or

(d) fails to report an accident to a boiler or steam pipe when so required by section 18, or

(e) tampers with a safety valve of a boiler so as to render it inoperative at the maximum pressure at which the use of the boiler is authorised under this Act,

shall be punishable with fine which may extend to five hundred rupees

Penalty for tampering with register mark.

25 (1) Whoever removes alters, defaces, renders invisible or otherwise tampers with the register number marked on a boiler in accordance with the provisions of this Act or any Act repealed hereby, shall be punishable with fine which may extend to five hundred rupees

(2) Whoever fraudulently marks upon a boiler a register number which has not been allotted to it under this Act or any Act repealed hereby shall be punishable with imprisonment which may extend to two years or with fine, or with both

Limitation and previous sanction for prosecutions

26 No prosecution for an offence made punishable by or under this Act shall be instituted except within six months from the date of the commission of the offence and no such prosecution shall be instituted without the previous sanction of the Chief Inspector

Trial of offences

27 No offence made punishable by or under this Act shall be tried by a Court inferior to that of a Presidency Magistrate or a Magistrate of the first class

Power to make regulations

28 The Governor General in Council may, by notification in the Gazette of India make regulations[1] consistent with this Act for all or any of the following purposes namely —

(a) for laying down the standard conditions in respect of material, design and construction which shall be required for the purpose of enabling the registration and certification of a boiler under this Act

(b) for prescribing the method of determining the maximum pressure at which a boiler may be used

1 For Indian Boiler Regulations 1924 see Gen R and O Vol V, p 136

(c) for regulating the registration of boilers, prescribing the fees payable therefor, the drawings, specifications, certificates and particulars to be produced by the owner, the method of preparing a boiler for examination, the form of the Inspector's report thereon, the method of marking the register number, and the period within which such number is to be marked on the boiler;

(d) for regulating the inspection and examination of boilers and steam pipes, and prescribing forms of certificates therefor,

(e) for ensuring the safety of persons working inside a boiler, and

(f) for providing for any other matter which is not, in the opinion of the Governor General in Council, a matter of merely local or provincial importance

Power to make rules

29. The Local Government may, by notification in the local official Gazette, make rules[1] consistent with this Act and the regulations made thereunder for all or any of the following purposes, namely —

(a) for prescribing the qualifications and duties of the Chief Inspector and of Inspectors, for regulating their salary, allowances and conditions of service, for prescribing or constituting authorities to which they shall respectively be subordinate, and the limits of the administrative control to be exercised by such authorities,

(b) for regulating the transfer of boilers,

(c) for providing for the registration and certification of boilers in accordance with the regulations made under this Act,

(d) for requiring boilers to be in charge of persons holding certificates of competency, and for prescribing the conditions on which such certificates may be granted,

(e) for prescribing the times within which Inspectors shall be required to examine boilers under section 7 or section 8,

(f) for prescribing the fees payable for the issue of renewed certificates and the method of determining the amount of such fees in each case,

(g) for regulating inquiries into accidents,

[1] For such rules for Coorg see Notification No 37, dated 31st March 1925, in the Coorg District Gazette, 1925, Pt I, p 26

(*h*) for constituting the appellate authority referred to in section 20, and for determining its powers and procedure

(*i*) for determining the mode of disposal of fees, costs and penalties levied under this Act and

(*j*) generally to provide for any matter which is in the opinion of the Local Government a matter of merely local importance in the province

Provided that the previous sanction of the Governor General in Council shall be required to the making of any rule under clause (*j*)

Penalty for breach of rules

30 Any regulation or rule made under section 28 or section 29 may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees

Publication of regulations and rules

31 (*1*) The power to make regulations and rules conferred by sections 28 and 29 shall be subject to the condition of the regulations and rules being made after previous publication

(*2*) Regulations and rules so made shall be published in the Gazette of India and the local official Gazette respectively and on such publication shall have effect as if enacted in this Act

Recovery of fees etc

32 All fees costs and penalties levied under this Act shall be recoverable as arrears of land revenue

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Amendment of section 34 Act V of 1923

3 Section 34 of the said Act shall be re numbered as sub section (*2*) of section 34, and the following sub section shall be inserted as sub section (*1*) of that section, namely —

Exemptions.

" 34 (*1*) The Local Government may, by notification in the local official Gazette, exempt from the operation of this Act subject to such conditions and restrictions as it thinks fit any boilers or classes or types of boilers used exclusively for the heating of buildings or the supply of hot water "

[*THE SCHEDULE*]

[*Enactments Repealed*] *Repealed by s 2 and Sch of the Repealing Act 1927 (12 of 1927)*

ACT No. VI OF 1923.[1]

[*5th March, 1923.*]

An Act further to amend and to consolidate the law relating to the provision of house accommodation for military officers in cantonments.

WHEREAS it is expedient further to amend and to consolidate the law relating to the provision of house accommodation for military officers in cantonments; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Cantonments (House Accommodation) Act, 1923.

(*2*) It extends to the whole of British India (inclusive of British Baluchistan) except Aden.

(*3*) It shall come into force on the first day of April, 1923, but it shall not become operative in any cantonment or part of a cantonment until the issue, or otherwise than in pursuance, of a notification as hereinafter provided by section 3:

Provided that any notification made under section 3 of the [2]Cantonments (House Accommodation) Act, 1902, which is in force at the commencement of this Act shall be deemed to be a notification made under section 3 of this Act. II o

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Brigade area" means one of the Brigade areas, whether occupied by a brigade or not, into which India is for military purposes for the time being divided, and includes any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a Brigade area for all or any of the purposes of this Act;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 233, and for Report of Joint Committee, *see ibid.*, 1923, Pt. V, p. 5.
[2] Repealed by s. 79 and Sch. I of this Act.

(Chapter I.—Preliminary.)

(*b*) "Cantonment Authority" means a Cantonment [1][Board], or, in the case of a cantonment for which such a [1][Board] has not been constituted or has ceased to exist or cannot be convened, the [2][Officer Commanding the station];

[3][(*bb*) "Cantonment Board" means a Cantonment Board constituted under the Cantonments Act, 1924;]

(*c*) "Command" means one of the Commands into which India is for military purposes for the time being divided, and includes any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a Command for all or any of the purposes of this Act;

(*d*) [2]["Officer Commanding the station"] means the officer for the time being in command of the forces in a cantonment;

(*e*) "District" means one of the Districts into which India is for military purposes for the time being divided; it includes a Brigade area which does not form part of any such District and any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a District for all or any of the purposes of this Act;

(*f*) "house" means a house suitable for occupation by a military officer or a military mess, and includes the land and buildings appurtenant to a house;

(*g*) "military officer" means a commissioned or warrant officer of His Majesty's military or air forces on military or air-force duty in a cantonment, and includes a Chaplain on duty with troops in a cantonment, [an officer of the Cantonments Department] and any person in Army departmental employment whom the Officer Commanding the District may at any time, by an order in writing, place on the same footing as a military officer for the purposes of this Act;

(*h*) "owner" includes the person who is receiving, or is entitled to receive, the rent of a house, whether on his own account or on behalf of himself and others or as an agent or trustee,

[1] This word was substituted for the word "Committee" by s. 2 of the Cantonments (House-Accommodation Amendment) Act, 1925 (10 of 1925).

[2] These words were substituted for the words "Commanding Officer of the Cantonment" by *ibid.*, s. 6.

[3] This clause was inserted by *ibid.*, s. 2.

[4] These words were substituted for the words "a Cantonment Magistrate" by *ibid.*, s. 2.

or who would so receive the rent, or be entitled to receive it, if the house were let to a tenant, and

(i) a house is said to be in a state of reasonable repair when—

(i) all floors, walls, pillars and arches are sound and all roofs sound and watertight,

(ii) all doors and windows are intact, properly painted or oiled, and provided with proper locks or bolts or other secure fastenings, and

(iii) all rooms, out houses and other appurtenant buildings are properly colour washed or white washed.

(2) If any question arises whether any land or building is appurtenant to a house, it shall be decided by the [1][Officer Commanding the station] whose decision thereon shall, subject to revision by the District Magistrate, be final.

CHAPTER II

APPLICATION OF ACT.

Cantonments or parts of cantonments in which Act to be operative.

3. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare this Act to be operative in any cantonment or part of a cantonment situate in the Province, other than a cantonment situate within the limits of a presidency town.

(2) Before issuing a notification under sub-section (1) in respect of any cantonment or part of a cantonment, the Local Government shall cause local inquiry to be made with a view to determining whether it is expedient to issue such notification and what portion (if any) of the area proposed to be included therein should be excluded therefrom.

Saving of written instruments.

4. Nothing in this Act shall affect the provisions of any written instrument executed by or on behalf of the East India Company or the Government, unless the other party entitled and the Secretary of State for India in Council consent in writing to be bound by the terms of this Act.

CHAPTER III

APPROPRIATION OF HOUSES.

Liability of houses to appropriation.

5. Every house situate in a cantonment or part of a cantonment in respect of which a notification under sub-section (1) of section 3 is for

1 These words were substituted for the words "Commanding Officer of the Cantonment" by s. 6 of the Cantonments (House Accommodation Amendment) Act, 1925 (10 of 1925).

the time being in force shall be liable to appropriation by the Government on a lease in the manner and subject to the conditions hereinafter provided

Inspection of house required for occupation by the military.

6 (*1*) Where the [1][*Officer Commanding the station*] considers that the liability imposed by section 5 should be enforced in respect of any house, he shall serve a notice on the owner of the house requiring him to permit the house to be inspected, measured and surveyed by such person and on such day, not being less than three days from the service of the notice, and at such time as may be specified in the notice

(*2*) On the day and at the time so specified, the owner shall be bound to afford all reasonable facilities to the person specified in the notice for the purpose of the inspection, measurement and survey of the house, and, if he refuses or neglects to do so, the said person may, subject to rules made under this Act, enter on the premises and do all such things as may be reasonably necessary for the said purpose

Procedure for taking house on lease

7. (*1*) If, on the report of such person as aforesaid, the [1][Officer Commanding the station] is satisfied that the house is suitable for occupation by a military officer or a military mess, he may, with the previous sanction of the Officer Commanding the District, by notice—

(*a*) require the owner to execute a lease of the house to the Government for a specified period which shall not be less than five years

(*b*) require the existing occupier, if any, to vacate the house and

(*c*) require the owner to execute within such time as may be specified in the notice such repairs as may, in the opinion of the [1][Officer Commanding the station], be necessary for the purpose of putting the house into a state of tenantable repair

(*2*) Every notice issued under sub section (*1*) shall state the [illegible] of the annual rent proposed as reasonable for the house, cal[illegible] the assumption that the owner will carry out the required [illegible] any It shall also contain an estimate of the cost of such [illegible]

(*3*) The following shall be deemed to be conditions of [illegible] executed under sub section (*1*) namely —

(*a*) that the house shall, on the expiration of the [illegible] delivered to the owner in a state of reason[illegible]

1 These words were substituted for the words Commanding [illegible] ment by s 6 of the Cantonments (House Accommodation Amen[illegible] of 1925)

(*b*) that the grounds and the garden, if any, appertaining to the house shall be maintained in the condition in which they are at the time at which the lease is executed

Procedure to be observed before taking a house on lease

8. The Officer Commanding the District shall not sanction the issue of any notice under section 7 unless he is satisfied—

(i) that the house in respect of which it is proposed to issue the notice is suitable for occupation by a military officer or a military mess, and

(ii) that there is not in the cantonment or, if this Act is in force in a part only of the cantonment, then in that part thereof, a sufficient number of houses already available and suitable for occupation by military officers or military messes whose accommodation in the cantonment, or a part thereof, as the case may be, is in his opinion necessary or expedient

Sanction to be obtained before a house is occupied as a hospital etc

9 No house in any cantonment or part of a cantonment in which this Act is operative shall, unless it was so occupied at the date of the issue of the notification declaring this Act or the [1]Cantonments (House Accommodation) Act 1902, as the case may be, to be operative, be occupied for the purposes of a hospital, school school hostel, bank, hotel, or shop, or by a railway administration, a company or firm engaged in trade or business or a club, without the previous sanction of the Officer Commanding the District given with the concurrence of the Commissioner or, in a province where there are no Commissioners, of the Collector II of 1

Houses not to be appropriated in certain cases

10 No notice shall be issued under section 7 if the house—

(*a*) was at the date of the issue of the notification declaring this Act or the [1]Cantonments (House Accommodation) Act, 1902 as the case may be to be operative in the cantonment or part of the cantonment or is, with such sanction as is required by section 9, occupied as a hospital school, school hostel, bank, hotel or shop and has been so occupied continuously during the three years immediately preceding the time when the occasion for issuing the notice arises or II of 1

(*b*) was at the date of such a notification as is referred to in clause (*a*) or is, with such sanction as aforesaid, occupied by a railway administration or by a company or firm engaged in trade or business or by a club, or

(*c*) is occupied by the owner, or

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[1] Repealed by s 39 and Sch of this Act

(Chapter III — Appropriation of Houses.)

(*d*) has been appropriated by the Local Government with the concurrence of the Officer Commanding the District, or by the Governor General in Council, for use as a public office or for any other purpose.

11. (*1*) If a house is unoccupied, a notice issued under section 7 may require the owner to give possession of the same to the [1][Officer Commanding the station] within twenty-one days from the service of the notice.

Time to be allowed for giving possession of house.

(*2*) If a house is occupied, a notice issued under section 7 shall not require its vacation in less than thirty days from the service of the notice.

(*3*) Where a notice has been issued under section 7 and the house has been vacated in pursuance thereof, the lease shall be deemed to have commenced on the date on which the house was so vacated.

12. If the owner fails to give possession of a house to the [1][Officer Commanding the station] in pursuance of a notice issued under section 7, or if the existing occupier fails to vacate a house in pursuance of such a notice, the District Magistrate, by himself or by another person generally or specially authorised by him in this behalf, shall enter on the premises and enforce the surrender of the house.

Surrender of house when to be enforced.

13. (*1*) If a house in respect of which a notice is issued under section 7, is shown to the satisfaction of the Local Government, or is proved by a decree or order of a Court of competent jurisdiction to have been erected—

Option in certain cases for owner on whom notice is issued under section 7 to call upon the Government to purchase.

(*a*) under any conditions, rules, regulations or orders which were in force in Bengal prior to the eighth day of December, 1864, and conferred on the owner the option of offering the house for sale to the military officer applying for its appropriation for his occupation or to the East India Company or the Government; or

(*b*) under any conditions, rules, regulations or orders which were in force in Bombay prior to the first day of June, 1875, and conferred such an option as is described in clause (*a*),

then the owner shall have the option of either complying with the notice or offering the house for sale to the Government.

(*2*) If the owner elects to sell the house, and the Government is willing to purchase it, the question of the amount of the purchase money

1 These words were substituted for the words "Commanding Officer of the Cantonment" by s. 6 of the Cantonments (House-Accommodation Amendment) Act, 1925 (10 of 1925).

to be paid shall, in the event of disagreement, be referred to a Committee of Arbitration

Provision where house is held on long lease by a tenant

14 (*1*) If a house in respect of which a notice is issued under section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease for any term exceeding one year, the Secretary of State for India in Council shall for the term of one year from the date on which the house is vacated in pursuance of the notice, or for the unexpired term of the lease whichever is the shorter, be liable to the owner for the rent fixed by the registered lease instead of for the rent payable under this Act if the rent so fixed exceeds the rent so payable

(*2*) If a house, in respect of which a notice is issued under section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease from year to year, the Secretary of State for India in Council shall be liable as aforesaid for the term of six months from the date on which the house is vacated in pursuance of the notice

(3) Nothing in this section shall be deemed—

(*a*) to render the said Secretary of State in Council so liable unless an application in writing in this behalf is made by the owner to the [1][Officer Commanding the station] within fifteen days from the service of the notice, or

(*b*) to limit or otherwise affect any agreement between the said Secretary of State in Council and the owner

Power for owner to require reference to arbitration on question of rent

15 (*1*) If the owner considers that the rent stated in a notice issued under section 7 is not reasonable he may, within a period of fifteen days from the service of such notice require that the matter be referred by the [1][Officer Commanding the station] to a Committee of Arbitration

(*2*) If the owner does not make such a requisition within the said period, he shall be deemed to have accepted the rent so offered

Power for owner to require reference to arbitration on question of repairs

16 (*1*) If the owner fails to execute any repairs to a house as required by a notice issued to him under section 7, the [1][Officer Commanding the station] may by notice require the owner to execute the repairs within such period, not being less than fifteen days, as may be specified in the notice

[1] These words were substituted for the words "Commanding Officer of the Cantonment" by s 6 of the Cantonments (House Accommodation Amendment) Act, 1925 (IC of 1925)

(Chapter III —Appropriation of Houses.)

(2) If the owner objects to any requisition contained in a notice issued under sub section (1), he may, within fifteen days from the service of the notice, require that the matter be referred by the [1][Officer Commanding the station] to a Committee of Arbitration

Power to have repairs executed and recover cost.

17. Where—

(a) the owner fails to comply with a notice issued under sub-section (1) of section 16 and has not, within fifteen days from the service of such notice, required that the matter be referred to a Committee of Arbitration, or

(b) a Committee of Arbitration decides that repairs are necessary and the extent to which they are necessary, and specifies the period within which they are to be executed, and the owner fails to execute them within such period, and has not within one month from the date of the decision appealed therefrom to the Civil Court as hereinafter provided, or

(c) the owner fails to execute within such period as may be specified by the Civil Court hearing such appeal such repairs as the Court may decide to be necessary,

the [2][Military Engineer] Services or the Public Works Department shall, on the application of the [1][Officer Commanding the station] cause the repairs specified in the notice or, if the matter has been referred to a Committee of Arbitration, in the decision of the Committee or the Civil Court, as the case may be, to be executed at the expense of the Government, and the cost thereof may be deducted from the rent payable to the owner

Notice to be given of devolution of interest in house in cantonment

18 Every person on whom devolves, by transfer, by succession or by operation of law, the interest of an owner in any house, or in any part of any house situate in a cantonment or part of a cantonment in respect of which a notification under sub section (1) of section 3 is for the time being in force, shall be bound to give notice of the fact to the [1][Officer Commanding the station] within one month from the date of such devolution and, if he without reasonable cause, fails to do so, he shall be punishable with fine which may extend to fifty rupees

1 These words were substituted for the words "Commanding Officer of the Cantonment" by s. 6 of the Cantonments (House Accommodation Amendment) Act, 1925 (10 of 1925)

2 These words were substituted for the word "Military Works" by s 3 *ibid*

CHAPTER IV

COMMITTEES OF ARBITRATION

Convening of Committees of Arbitration in cases falling under sub-section (2) of section 13.

19. In the event of any disagreement as to the amount of the purchase-money of a house to be sold under sub-section (2) of section 13, the [1][Officer Commanding the station] shall forthwith proceed to convene a Committee of Arbitration to determine it.

Convening of Committees of Arbitration on requisition of owners.

20. Where a requisition is made to the [1][Officer Commanding the station] by an owner under section 15 or section 16, the [1][Officer Commanding the station] shall forthwith proceed to convene a Committee of Arbitration—

(*a*) to determine the amount of the rent to be paid, or

(*b*) to determine whether any, and (if any) what, repairs are necessary, the extent to which they are necessary, and the period within which they are to be executed, or

(*c*) otherwise to determine the question in dispute.

Procedure for convening Committees of Arbitration generally.

21. (*1*) Where a Committee of Arbitration is to be convened, the [1][Officer Commanding the station] shall forthwith cause an order to be published in Station Orders stating the matter to be determined.

(*2*) The [1][Officer Commanding the station] shall forthwith send a copy of such order to the District Magistrate and to the parties concerned, and, as soon as may be, shall by notice call upon the owner concerned to make, and shall himself make, nominations in accordance with the provisions of sections 22 and 23.

Constitution of Committee of Arbitration.

22. (*1*) Every Committee of Arbitration shall consist of five members, namely:—

(*a*) two members nominated by the [1][Officer Commanding the station] one of whom shall, if possible, be an officer of the [2][Military Engineer] Services or of the Public Works Department,

(*b*) two members nominated by the owner concerned, who shall be persons liable to pay taxes in the cantonment and ordinarily resident therein or in the immediate vicinity thereof; and

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[1] These words were substituted for the words "Commanding Officer of the Cantonment" by s. 6 of the Cantonments (House-Accommodation Amendment) Act, 1925 (10 of 1925).

[2] These words were substituted for the words "Military Works" by s. 3 of *ibid.*

(*Chapter IV.—Committees of Arbitration.*)

(c) a chairman who shall be a person not in the service of the Government or the Cantonment Authority and not having any interest in house-property in the cantonment which has been appropriated or is liable to appropriation under this Act, and who shall be nominated by the [1][Officer Commanding the station.]

(2) If the [1][Officer Commanding the station] or the owner concerned fails without reasonable cause to nominate, within seven days from the date on which the owner has been called upon to make nominations under section 21, any member whom he is entitled to nominate under sub-section (1) or if any member who has been nominated neglects or refuses to act and the person by whom such member was nominated fails to nominate another member in his place within seven days from the date on which he may be called upon to do so by the District Magistrate, the District Magistrate shall forthwith appoint a member or members to fill the vacancy or vacancies.

Members of Committees of Arbitration to be persons who have no direct interest and whose services are immediately available.

23. (1) No person who has a direct interest in the matter under reference or whose services are not immediately available for the purposes of the Committee shall be nominated a member of a Committee of Arbitration.

(2) If, in the opinion of the District Magistrate, any person who has been nominated has a direct interest in the matter under reference, or is otherwise disqualified for nomination, or if the services of any such person are not immediately available as aforesaid, and if the person by whom any such person was nominated fails to nominate another member within seven days from the date on which he may be called upon to do so by the District Magistrate, such failure shall be deemed to constitute a failure to make a nomination within the meaning of section 22.

Meetings and powers of Committees of Arbitration.

24. (1) When a Committee of Arbitration has been duly constituted the [1][Officer Commanding the station] shall by notice inform each of the members of the fact, and the Committee shall meet as soon as may be thereafter.

(2) The Committee shall receive and record evidence and shall have power to administer oaths to witnesses, and the District Magistrate on requisition in writing signed by the Chairman of the Committee shall

1 These words were substituted for the words "Commanding Officer of the Cantonment" by s. 6 of the Cantonments (House Accommodation Amendment) Act, 1925 (10 of 1925).

issue the necessary processes for the attendance of witnesses and the production of documents required by the Committee, and may enforce the said processes as if they were processes for attendance or production before himself

Powers of Chairman of Committee of Arbitration as to meetings

25 The Chairman of the Committee of Arbitration shall fix the time and place of meeting, and shall have power to adjourn the meeting from time to time as may be necessary

Calculation of amount of purchase money by Committees of Arbitration

26. In determining the amount of the purchase money to be paid for a house to be sold under sub section (2) of section 13, the Committee of Arbitration shall estimate the market value of the house at the date on which the notice was served on the owner under section 7

Calculation of rent by Committees of Arbitration

27 In determining the amount of rent to be paid for a house, the Committee of Arbitration shall estimate the market value of the house at the date on which the notice was served on the owner under section 7, and shall fix the annual rent at such percentage on that value as is for the time being recoverable by way of annual rent on the market-value of similar houses in the cantonment

Provided that due allowance shall be made in respect of the cost to the lessee of maintaining the house in a state of reasonable repair during the period of the lease

Decisions of Committees of Arbitration

28 (1) The decision of every Committee of Arbitration shall be in accordance with the majority of votes taken at a meeting at which the chairman and at least three of the other members are present

(2) If there is not a majority of votes in favour of any proposed decision, the opinion of the chairman shall prevail

(3) Save as provided in this Act, the decision of a Committee of Arbitration shall be final and shall not be questioned in any Court

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CHAPTER V

APPEALS

Appeal to Civil Court

29 (1) If the [1][Officer Commanding the station] or the owner of a house in respect of which any matter has been referred to a Committee of Arbitration, is dissatisfied with any decision of the Committee

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[1] These words were substituted for the words Command ng Officer of the Cantonment by s 6 of the Cantonments (House Accommodation Amendment) Act, 1925 (10 of 1925)

of Arbitration, he may, within one month from the date of such decision, appeal to the principal Civil Court having ordinary original civil jurisdiction in the cantonment, and the decision of such Court shall be final

(2) A Civil Court hearing an appeal under this section shall, so far as may be, follow the same procedure and have the same powers as it follows and has when hearing an appeal under the Code of Civil
908 Procedure, 1908

30. (1) The owner or any tenant of a house in respect of which a notice has been issued under section 7 may appeal to the Officer Commanding the District or, if that officer is the [1][Officer Commanding the station,] to the General Officer Commanding in Chief, the Command, against the decision of the [1][Officer Commanding the station] to appropriate the house

Appeal to military authorities.

(2) No such appeal shall be admitted unless made within a period of twenty one days from the service of the notice aforesaid, and such period shall be computed in accordance with the provisions of the
1908 Indian Limitation Act, 1908, with respect to the computation of periods of limitation thereunder

31 (1) Every petition of appeal under section 30 shall be in writing and accompanied by a copy of the notice appealed against

Petition of appeal

(2) Any such petition may be presented to the [1][Officer Commanding the station], and that officer shall be bound to forward it to the authority empowered by section 30 to hear the appeal, and may attach thereto any report which he may desire to make in explanation of the notice appealed against

(3) If any such petition is presented direct to the Officer Commanding the District and an immediate order on the petition is not necessary, the Officer Commanding the District may refer the petition to the [1][Officer Commanding the station] for report

32 The decision on any such appeal of the Officer Commanding the District or of the General Officer Commanding-in Chief, the Command, as the case may be shall be final, and shall not be questioned in any Court otherwise than on the ground that the house is situate in a cantonment, or part of a cantonment in which this Act is not operative

Order in appeal final

1 These words were substituted for the words "Commanding Officer of the Cantonment" by s 6 of the Cantonments (House Accommodation Amendment) Act 1925 (10 of 1925)

Provided that no appeal shall be decided until the appellant has been heard or has had a reasonable opportunity of being heard in person or through a legal practitioner

Suspension of action pending appeal

33 Where an appeal has been presented under section 30 within the period prescribed by sub section (2) of that section, all action on the notice shall, on the application of the appellant, be held in abeyance pending the decision of the appeal

CHAPTER VI

SUPPLEMENTAL PROVISIONS

Service of notice and requisitions

34. Every notice or requisition prescribed by this Act shall be in writing, signed by the person by whom it is given or made or by his duly appointed agent, and may be served by post on the person to whom it is addressed, or, *in the case of an owner who does not reside in or near the* cantonment, on his agent appointed [1][in accordance with a bye law made under clause (29) of section 282 of the Cantonments Act, 1924]

Power for Governor General in Council to make rules

35. (1) The Governor General in Council may make rules[2] to carry out the purposes and objects of this Act

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) regulate the procedure of Committees of Arbitration, and

(b) *define the powers of entry, inspection, measurement or survey* which may be exercised in carrying out the purposes and objects of this Act or of any rule made hereunder

Further provisions respecting rules.

36 (1) The power to make rules under section 35 shall be subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette of India and in such other manner (if any) as the Governor General in Council may direct

(2) Any rule under section 35 may be general for all cantonments or parts of cantonments in British India in which this Act is for the time being operative, or may be special for any of such cantonments or parts as the Governor General in Council may direct

(3) A copy of the rules under section 35 for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Authority

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1 These words were substituted for the words under the Cantonments Act 1910, or any rule made thereunder' by s 4 of the Cantonments (House Accommodation Amendment) Act 1925 (10 of 1925)

2 For such rules see Gen R and O, Vol V, p 251.

(4) In making any rule under clause (b) of sub section (2) of section 35, the Governor General in Council may direct that whoever obstructs any person, not being a public servant within the meaning of section 21 of the Indian Penal Code, in making any entry, inspection, measurement or survey, shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing offence, with fine which, in addition to such fine as aforesaid, may extend to five rupees for every day after the first during which such offence continues

Inapplicability of section 556 of the Code of Criminal Procedure, 1898, to trials of offences

37. No Judge or Magistrate shall be deemed, within the meaning of section 556 of the Code of Criminal Procedure, 1898, to be a party to, or personally interested in, any prosecution for an offence constituted by or under this Act merely because he is a member of the Cantonment [Board][1] or has ordered or approved the prosecution

Protection to persons acting under Act

38 No suit or other legal proceeding shall lie against any person for anything in good faith done, or intended to be done, under this Act or in pursuance of any lawful notice or order issued under this Act

39 [*Repeals*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)*

[*THE SCHEDULE*]

[*Enactments repealed*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)*

ACT No VII OF 1923[2]

[*5th March, 1923*]

An Act to give effect in British India to the Treaty for the Limitation of Naval Armament

WHEREAS it is expedient to give effect in British India to the Treaty for the Limitation of Naval Armament signed at Washington on behalf of His Majesty on the sixth day of February 1922, It is hereby enacted as follows —

Short title extent, and commencement

1 (1) This Act may be called the Indian Naval Armament Act, 1923

(2) It extends to the whole of British India and applies also to all subjects and servants of His Majesty in other parts of India

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[1] This word was substituted for the word Committee by s 5 of the Cantonments (House Accommodation Amendment) Act 1925 (10 of 1925)

[2] For Statement of Objects and Reasons *see* Gazette of India, 1922, Pt. V, p 348

(3) It shall come into force on such [1]date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "competent Court" means the High Court or such other Court having unlimited original civil jurisdiction as the Governor General in Council may declare to be a competent Court for the purposes of this Act,

(b) "ship" means any boat, vessel, battery or craft, whether wholly or partly constructed, which is intended to float or is capable of floating, on water, and includes all equipment belonging to any ship, and

(c) "the Treaty" means those Articles of the Treaty for the Limitation of Naval Armament signed at Washington on behalf of His Majesty on the sixth day of February 1922, which are set out in the Schedule

Restrictions on building or equipping vessels of war

3. No person shall, except under and in accordance with the conditions of a licence granted under this Act,—

(a) build any vessel of war, or alter, arm or equip any ship so as to adapt her for use as a vessel of war, or

(b) despatch or deliver, or allow to be despatched or delivered, from any place in British India any ship which has been, either wholly or partly, built, altered, armed or equipped as a vessel of war in any part of His Majesty's Dominions or in a State in India otherwise than under and in accordance with any law for the time being in force in that part or State

Licences.

4. (1) A licence under this Act for any of the purposes specified in section 3 may be granted by the Local Government, and shall not be refused unless it appears to the Local Government that such refusal is necessary for the purpose of securing the observance of the obligations imposed by the Treaty, and, where a licence is granted subject to conditions, the conditions shall be such only as the Local Government may think necessary for the purpose aforesaid

[1] This Act was brought into force from 10th November, 1923—*Vide* Notification No 49 dated the 9th November 1923 Gen R and O, Vol V, p 258

(2) An application for a licence under this section shall be in such form and shall be accompanied by such designs and particulars as the Local Government may, by general or special order, require

Offences against the Act

5 (1) If any person contravenes any of the provisions of section 3, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both

(2) Where an offence punishable under sub section (1) has been committed by a company or corporation every director and manager of such company or corporation shall be punishable thereunder unless he proves that the act constituting the offence took place without his knowledge and consent

(3) Nothing contained in section 517 or section 518 or section 520 of the Code of Criminal Procedure, 1898 shall be deemed to authorise the destruction or confiscation under the order of any Criminal Court of any ship which is liable to forfeiture under this Act or of any part of such ship

Liability of ships to forfeiture

6 Any ship which has been, either wholly or partly, built, altered, armed, or equipped as a vessel of war in British India in contravention of section 3, or in any other part of His Majesty's Dominions or any State in India in contravention of any like provision of law in force in that part or State shall, if found in British India be liable to forfeiture under this Act

Seizure detention and search of ships

7. (1) Where a ship is liable to forfeiture under this Act,—

(a) any Presidency Magistrate or Magistrate of the first class, or

(b) any commissioned officer on full pay in the military, naval or air service of His Majesty or any gazetted officer of the Royal Indian Marine Service, or

(c) any officer of customs or police officer not below such rank[1] as may be designated in this behalf by the Governor General in Council

may seize such ship and detain it and, if the ship is found at sea within the territorial waters of British India may bring it to any convenient port in British India

[1] For notifications designating the rank of such officers, see Gen. R and O, Vol. V, p 258

(2) Any officer taking any action under sub section (1) shall forthwith report the same through his official superiors to the Local Government

(3) The Local Government shall, within thirty days of the seizure, either cause the ship to be released or make or cause to be made, in the manner hereinafter provided, an application for the forfeiture thereof, and may make such orders for the temporary disposal of the ship as it thinks suitable

Procedure in forfeiture of ships

8. (1) An application for the forfeiture of a ship under this Act may be made by, or under authority from, the Local Government to any competent Court within the local limits of whose jurisdiction the ship is for the time being

(2) On receipt of any such application, the Court shall cause notice thereof and of the date fixed for the hearing of the application to be served upon all persons appearing to it to have an interest in the ship, and may give such directions for the temporary disposal of the ship as it thinks fit

(3) For the purpose of disposing of an application under this section, the Court shall have the same powers and follow, as nearly as may be, the same procedure as it respectively has and follows for the purpose of the trial of suits under the Code of Civil Procedure, 1908, and any order **V of 19** made by the Court under this section shall be deemed to be a decree, and the provisions of the said Code in regard to the execution of decrees shall, as far as they are applicable, apply accordingly

(4) Where the Court is satisfied that the ship is liable to forfeiture under this Act, it shall pass an order forfeiting the ship to His Majesty

Provided that where any person having an interest in the ship proves to the satisfaction of the Court that he has not abetted, or connived at, or by his negligence facilitated, in any way, a contravention of section 3 in respect of the ship, and such ship has not been built as a vessel of war, it may pass such other order as it thinks fit in respect of the ship or, if it be sold, of the sale proceeds thereof

Provided, further, that in no case shall any ship which has been altered, armed or equipped as a vessel of war be released until it has been restored to the satisfaction of the Local Government, to such condition as not to render it liable to forfeiture under this Act

(5) The Local Government or any person aggrieved by any order of a Court, other than a High Court, under this section may, within three months of the date of such order, appeal to the High Court

9 Where a ship has been forfeited to His Majesty under section 8, it may be disposed of in such manner as the Local Government, subject to the control of the Governor General in Council, directs **Disposal of forfeit**

Provided that, where the ship is sold under this section, due regard shall be had to the obligations imposed by the Treaty

10 If, in any trial appeal or other proceeding under the foregoing provisions of this Act, any question arises as to whether a ship is a vessel of war or whether any alteration, arming or equipping of a ship is such as to adapt it for use as a vessel of war, the question shall be referred to and determined by the Governor General in Council whose decision shall be final and shall not be questioned in any Court **Special proof of relevant facts.**

11 (1) Where a ship which has been seized or detained under section 7 or section 8 and has not been released by competent authority under this Act proceeds to sea, the master of the ship shall be punishable with fine which may extend to one thousand rupees, and the owner and any person who sends the ship to sea shall be likewise so punishable unless such owner or person proves that the offence was committed without his knowledge and consent **Penalties for proceeding to sea after seizure**

(2) Where any ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any officer empowered by this Act to seize and detain the ship, the owner and master shall further each be liable on the order of the Court trying an offence punishable under sub-section (1), to pay all the expenses of and incidental to such officer being taken to sea, and shall further be punishable with fine which may extend to one hundred rupees for every day until such officer returns or until such time as would enable him after leaving the ship to return to the port from which he was taken

(3) Any expenses ordered to be paid under sub section (2) may be recovered in the manner provided in the Code of Criminal Procedure, 1898, for the recovery of a fine **1898.**

12 (1) Any person empowered by this Act to seize and detain any ship may, at any reasonable time by day or night, enter any dockyard, shipyard or other place and make inquiries respecting any ship which he has reason to believe is liable to forfeiture under this Act and may search such ship with a view to ascertaining whether the provisions of this Act have been or are being duly observed in respect thereof and every person in charge of or employed in such place shall on request be bound to give the person so empowered all reasonable facilities for such entry and search and for making such inquiries **Power to enter dockyards, etc.**

(2) The provisions of sections 101, 102 and 103 of the Code of Criminal Procedure, 1898, shall apply in the case of all searches made under this section.

Courts by which and conditions subject to which offences may be tried.

13. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall proceed to the trial of any offence punishable under this Act, and no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the Local Government

Indemnity.

14. No prosecution, suit or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

THE SCHEDULE

(*See section* 2)

ARTICLES OF TREATY FOR THE LIMITATION OF NAVAL ARMAMENT.

ARTICLE V.

No capital ship exceeding 35,000 tons (35,560 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers

ARTICLE VI.

No capital ship of any of the Contracting Powers shall carry a gun with a calibre in excess of 16 inches (406 millimetres).

ARTICLE IX

No aircraft carrier exceeding 27,000 tons (27,432 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers

* * * * *

ARTICLE X.

No aircraft carrier of any of the Contracting Powers shall carry a gun with a calibre in excess of 8 inches (203 millimetres). Without prejudice to the provisions of Article IX, if the armament carried includes guns exceeding 6 inches (152 millimetres) in calibre the total number of guns carried, except anti-aircraft guns and guns not exceeding 5 inches

3 Each naval combatant vessel shall be rated at its displacement tonnage when in the standard condition The word " ton ", except in the expression " metric tons ", shall be understood to be the ton of 2,240 pounds (1,016 kilos)

Article 7

1 *No submarine the standard displacement of which* exceeds 2,000 tons (2 032 metric tons) or with a gun above 5 1 inch (130 mm) calibre shall be acquired by or constructed by or for any of the High Contracting Parties

2 Each of the High Contracting Parties may, however, retain, build or acquire a maximum number of three sub marines of a standard displacement not exceeding 2,800 tons (2,845 metric tons), these submarines may carry guns not above 6 1 inch (155 mm) calibre Within this number, France may retain one unit, already launched, of 2,880 tons (2,926 metric tons), with guns the calibre of which is 8 inches (203 mm)

* * * * * * *

4 As from the coming into force of the present Treaty in respect of all the High Contracting Parties, no submarine the standard displacement of which exceeds 2,000 tons (2,032 metric tons) or with a gun above 5 1 inch (130 mm) calibre shall be constructed within the jurisdiction of any of the High Contracting Parties, except as provided in paragraph 2 of this Article "

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Courts by which and conditions subject to which offences may be tried.

Indemnity

the specific and exclusive purpose of carrying aircraft and so constructed that aircraft can be launched therefrom and landed thereon

2 The fitting of a landing on or flying off platform or deck on a capital ship, cruiser or destroyer provided such vessel was not designed or adapted exclusively as an aircraft carrier, shall not cause any vessel so fitted to be charged against or classified in the category of aircraft carriers

Article 4

* * * * * * *

2 As from the coming into force of the present Treaty in respect of all the High Contracting Parties, no aircraft carrier of 10,000 tons (10,160 metric tons) or less standard displacement, mounting a gun above 6 1 inch (155 mm) calibre shall be constructed within the jurisdiction of any of the High Contracting Parties

Article 5

An aircraft carrier must not be designed and constructed for carrying a more powerful armament than that authorised by Article IX or Article X of the Washington Treaty, or by Article 4 of the present Treaty, as the case may be

Wherever in the said Articles IX and X the calibre of 6 inches (152 mm) is mentioned, the calibre of 6 1 inches (155 mm) is substituted therefor

Article 6

1 The rules for determining standard displacement prescribed in Chapter II, Part 4 of the Washington Treaty shall apply to all surface vessels of war of each of the High Contracting Parties

2 The standard displacement of a submarine is the surface displacement of the vessel complete (exclusive of the water in non watertight structure) fully manned, engined, and equipped ready for sea including all armament and ammunition, equipment, outfit, provisions for crew, miscellaneous stores, and implements of every description that are intended to be carried in war, but without fuel lubricating oil, fresh water or ballast water of any kind on board

3 Each

(127 millimetres), shall not exceed ten If alternatively the armament contains no guns exceeding 6 inches (152 millimetres) in calibre, the number of guns is not limited In either case the number of anti aircraft guns and of guns not exceeding 5 inches (127 millimetres) is not limited

ARTICLE XI

No vessel of war exceeding 10,000 tons (10,160 metric tons) standard displacement, other than a capital ship or aircraft carrier, shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers Vessels not specifically built as fighting ships nor taken in time of peace under Government control for fighting purposes, which are employed on fleet duties or as troop transports or in some other way for the purpose of assisting in the prosecution of hostilities otherwise than as fighting ships, shall not be within the limitations of this Article

ARTICLE XII

No vessel of war of any of the Contracting Powers, hereafter laid down, other than a capital ship, shall carry a gun with a calibre in excess of 8 inches (203 millimetres)

ARTICLE XIV

No preparations shall be made in merchant ships in time of peace for the installation of warlike armaments for the purpose of converting such ships into vessels of war, other than the necessary stiffening of decks for the mounting of guns not exceeding 6 inch (152 millimetres) calibre

ARTICLE XV

No vessel of war constructed within the jurisdiction of any of the Contracting Powers for a non Contracting Power shall exceed the limitations as to displacement and armament prescribed by the present Treaty for vessels of a similar type which may be constructed by or for any of the Contracting Powers, provided, however, that the displacement for aircraft carriers constructed for a non Contracting Power shall in no case exceed 27,000 tons (27,432 metric tons) standard displacement

ARTICLE XVI

If the construction of any vessel of war for a non Contracting Power is undertaken within the jurisdiction of any of the Contracting Powers,

such Power shall promptly inform the other Contracting Powers of the date of the signing of the contract and the date on which the keel of the ship is laid, and shall also communicate to them the particulars relating to the ship prescribed in Chapter II, Part 3, section 1 (*b*), (4) and (5)

ARTICLE XVIII

Each of the Contracting Powers undertakes not to dispose by gift, sale or any mode of transfer of any vessel of war in such a manner that such vessel may become a vessel of war in the navy of any foreign Power

CHAPTER II —PART 3 —SECTION 1

(*b*) Each of the Contracting Powers shall communicate promptly to each of the other Contracting Powers the following information —

* * * * *

(*4*) The standard displacement in tons and metric tons of each new ship to be laid down, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draught at standard displacement

(*5*) The date of completion of each new ship and its standard displacement in tons and metric tons, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draught at standard displacement, at time of completion

PART 4 —DEFINITIONS

For the purposes of the present Treaty, the following expressions are *to be understood in the sense defined in this Part*

Capital Ship

A capital ship, in the case of ships hereafter built, is defined as a vessel of war, not an aircraft carrier, whose displacement exceeds 10,000 tons (10,160 metric tons) standard displacement, or which carries a gun with a calibre exceeding 8 inches (203 millimetres)

Aircraft Carrier

An aircraft carrier is defined as a vessel of war with a displacement in excess of 10,000 tons (10,160 metric tons) standard displacement designed for the specific and exclusive purpose of carrying aircraft It must

be so constructed that aircraft can be launched therefrom and landed thereon, and not designed and constructed for carrying a more powerful armament than that allowed to it under Article IX or Article X, as the case may be

Standard Displacement

The standard displacement of a ship is the displacement of the ship complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition equipment, outfit provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board

The word " ton " in the present Treaty, except in the expression " metric tons," shall be understood to mean the ton of 2,240 pounds (1,016 kilo)

Vessels now completed shall retain their present ratings of displacement tonnage in accordance with their national system of measurement However, a Power expressing displacement in metric tons shall be considered for the application of the present Treaty as owning only the equivalent displacement in tons of 2 240 pounds

A vessel completed hereafter shall be rated at its displacement tonnage when in the standard condition defined herein

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ACT No VIII of 1923 [1]

[5th March, 1923]

An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident

WHEREAS it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident, It is hereby enacted as follows —

CHAPTER I

PRELIMINARY.

1. (1) This Act may be called the Workmen's Compensation Act 1923 — Short title, extent and commencement

[1] For Statement of Objects and Reasons see Gazette of India 1922 Pt V, p 313, and for Report of Joint Committee see ibid 1923 Pt V p 37

(Chapter I.—Preliminary.)

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of July, 1924.

Definitions. **2.** (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) "adult" and "minor" mean respectively a person who is not and a person who is under the age of fifteen years,

(b) "Commissioner" means a Commissioner for Workmen's Compensation appointed under section 20,

(c) "compensation" means compensation as provided for by this Act,

(d) "dependant" means any of the following relatives of a deceased workman, namely, a wife, husband, parent, minor son, unmarried daughter, married daughter who is a minor, minor brother or unmarried sister, and includes the minor children of a deceased son of the workman and, where no parent of the workman is alive, a paternal grand parent,

(e) "employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him,

(f) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;

(g) "partial disablement" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time: provided that every injury specified in Schedule I

ACT No. V OF 1929.

[PASSED BY THE INDIAN LEGISLATURE]

(Received the assent of the Governor General on the 29th March, 1929.)

An Act further to amend the Workmen's Compensation Act, 1923, for certain purposes.

WHEREAS it is expedient further to amend the Workmen's Compensation Act, 1923, for certain purposes hereinafter appearing, It is hereby enacted as follows — VIII of 1923

1. This Act may be called the Workmen's Compensation (Amendment) Act, 1929 Short title

2. In the proviso to sub-section (*1*) of section 3 of the Workmen's Compensation Act, 1923 (hereinafter referred to as the said Act), the word " or " at the end of clause (*b*) and the whole of clause (*c*) shall be omitted. Amendment of section 3 Act VIII of 1923

3. (*1*) Section 5 of the said Act shall be re-numbered as sub-section (*1*) of section 5, and in that sub-section as so re-numbered, in the *Explanation*, for the words " this section " the words ' this sub section ' shall be substituted Amendment of section 5 Act VIII of 1923

(*2*) To the same section as so re-numbered the following sub-section shall be added, namely —

" (*2*) The provisions of sub-section (*1*), other than the proviso, shall apply to the calculation of wages for the purposes of clause (*n*) of sub-section (*1*) of section 2 and of sub section (*3*) of that section "

4. In section 8 of the said Act,— Amendment of section 8 Act VIII of 1923

(*a*) for sub sections (*1*) to (*3*) the following sub sections shall be substituted, namely —

" (*1*) No payment of compensation in respect of a workman whose injury has resulted in death and no payment of a lump sum as compensation to a woman or a person under a legal disability shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by

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by an employer shall be deemed to be a payment of compensation

Provided that in the case of a deceased workman,—

(a) an employer may make to any dependant or other person, by whom the funeral expenses are to be or have been incurred, an advance not exceeding fifty rupees for the purpose of defraying the same in whole or in part, and may make other advances to dependants on account of compensation not exceeding however an aggregate of one hundred rupees in the case of any one dependant,

(b) the amount of any advance made in accordance with the provisions of clause (a) to defray funeral expenses may be deducted by the employer from the lump sum to be deposited with the Commissioner, and the amount of any other advance so made to a dependant or so much thereof as does not exceed the compensation apportioned to him, shall be deducted by the Commissioner from such compensation and be repaid to the employer

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him";

(b) in sub-section (4), after the words "under sub section (1)" the words "as compensation in respect of a deceased workman" shall be inserted, and after the words "fifty rupees" the following words shall be inserted, namely —

"or so much of that cost or of fifty rupees, whichever is less, as has not already been advanced by the employer on account of such expenses",

(c) for sub section (5) the following sub sections shall be substituted, namely —

"(5) Compensation deposited in respect of a deceased workman shall subject to any deduction made under sub section (4), be apportioned among the dependants

dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner be allotted to any one dependant

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto

(7) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct, and where a half monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman ", and

(*d*) sub section (*6*) shall be re numbered as sub section (*8*) and after that sub section the following sub section shall be added, namely —

" (*9*) Where the Commissioner varies any order under sub section (*8*) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 31 "

Amendment of section 23, Act VIII of 1923

5. To section 23 of the said Act after the words " material objects " the following words shall be added *namely* —

" and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure 1898 " V of 1898

6 In

6 In sub section (1) of section 28 of the said Act,— Amendment of section 28, VIII of 1923

(a) for the words "to a person under a legal disability" the words "to a woman or a person under a legal disability" shall be substituted,

(b) clause (b) of the proviso shall be omitted, and

(c) in clause (d), for the words "to a person under any legal disability" the words "to a woman or a person under a legal disability" shall be substituted

7. In Schedule II to the said Act — Amendment of Schedule II Act VIII of 1923

(1) for clause (i) the following clause shall be substituted, namely —

"(i) employed for the purpose of loading, unloading fuelling, constructing repairing demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or",

(2) in clause (iii) for the word "cable" the words "line or cable or post or standard for the same" shall be substituted, and

(3) after clause (ix) the following clauses shall be added, namely —

"or

(x) employed upon a railway as defined in clause (4) of section 3, and sub section (1) of section 148 of the Indian Railways Act, 1890, by a person fulfilling a contract with the railway administration, or [?] of 1890

(xi) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service, or

(xii) employed, in connection with operations for winning natural petroleum or natural gas, as a rig builder, driller, driller's helper, oil well puller or in bailing or cleaning oil wells or putting in and taking out casings or drill pipes in oil wells or

(xiii) employed in any occupation involving blasting operations"

8 In Schedule IV to the said Act, for the words and letters "clause (a) or clause (b)" the word and figure "sub section (1)" shall be substituted Amendment of Schedule IV Act VIII of 1923

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(Chapter I — Preliminary)

shall be deemed to result in permanent partial disablement,

(h) "prescribed" means prescribed by rules made under this Act,

(i) "qualified medical practitioner" means any person registered under the Medical Act 1858 or any Act amending the same or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners or in any area where no such last mentioned Act is in force any person declared by the Local Government by notification in the local official Gazette to be a qualified medical practitioner for the purposes of this Act

(j) "registered ship" means any sea going ship registered under the [1]Bombay Coasting Vessels Act 1838 or the Indian Registration of Ships Act 1841 or the Indian Registration of Ships Act (1841) Amendment Act 1850 or any home trade ship so registered of a registered tonnage of not less than three hundred tons or any inland steam vessel as defined in section 2 of the Inland Steam Vessels Act 1917 of a registered tonnage of not less than one hundred tons,

(k) "seaman" means any person forming part of the crew of any registered ship but does not include the master of any such ship

(l) "total disablement" means such disablement whether of a temporary or permanent nature as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity as specified in that Schedule against those injuries amounts to one hundred per cent

(m) "wages" includes any privilege or benefit which is capable of being estimated in money other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment,

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[1] Bombay Code

(*Chapter I.—Preliminary.*)

(*n*) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is—

(i) a railway servant as defined in section 3 of the Indian Railways Act, 1890, not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or IX of 1890.

(ii) employed, either by way of manual labour or on monthly wages not exceeding three hundred rupees, in any such capacity as is specified in Schedule II,

whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing, but does not include any person working in the capacity of a member of His Majesty's naval, military or air forces or of the Royal Indian Marine Service, and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

(2) The exercise and performance of the powers and duties of a local authority or of any department of the Government shall, for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

(3) The Governor General in Council after giving, by notification in the Gazette of India, not less than three months' notice of his intention so to do, may, by a like notification, direct that the provisions of this Act shall apply in the case of any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is employed by way of manual labour or on monthly wages not exceeding three hundred rupees in any occupation declared by such notification to be a [1]hazardous occupation, or that the said provisions shall apply in the case of any specified class of such persons or in the case of any such person or class to whom any specified injury is caused, and any person in whose case the said provisions are so made applicable shall be deemed to be a workman within the meaning of this Act.

[1] For list of hazardous occupations see Gen. R. and O., Vol. V., p. 259, and Gazette of India, 1926, Pt. I, p. 1367, ibid, 1927, Pt. I, p. 769, ibid, 1928, Pt. I, p. 653.

(Chapter II.—Workmen's Compensation.)

CHAPTER II

WORKMEN'S COMPENSATION

3. (1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter. **Employer's liability for compensation.**

Provided that the employer shall not be so liable—

(a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding ten days,

(b) in respect of any injury to a workman resulting from an accident which is directly attributable to—

(i) the workman having been at the time thereof under the influence of drink or drugs, or

(ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or

(iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen, or

(c) except in the case of death or permanent total disablement, in respect of any workman employed in the construction, repair or demolition of a building or bridge.

(2) If a workman employed in any employment involving the handling of wool, hair, bristles, [1][or animal carcasses or parts of such carcasses or in the loading, unloading or transport of any merchandise, or in any work in connection with animals infected with anthrax], contracts the disease of anthrax, or if a workman whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

1 These words were substituted for the words "hides or skins" by s. 2 of the Workmen's Compensation (Amendment) Act, 1926 (29 of 1926).

(*Chapter II —Workmen's Compensation*)

Explanation —For the purposes of this sub section a period of service shall be deemed to be continuous which has not included a period of service under any other employer

(*3*) The Governor General in Council after giving, by notification in the Gazette of India, not less than three months' notice of his intention so to do may, by a like notification, add [1]any description of employment to the employments specified in Schedule III, and shall specify in the case of the employments so added the diseases which shall be deemed for the purposes of this section to be [1]occupational diseases peculiar to those employments respectively, and the provisions of sub section (*2*) shall thereupon apply as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments

(*4*) Save as provided by sub sections (*2*) and (*3*), no compensation shall be payable to a workman in respect of any disease unless the disease is solely and directly attributable to a specific injury by accident arising out of and in the course of his employment

(*5*) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person and no suit for damages shall be maintainable by a workman in any Court of law in respect of any injury—

(*a*) if he has instituted a claim to compensation in respect of the injury before a Commissioner or

(*b*) if an agreement has been come to between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act

Amount of compensation

4 (*1*) Subject to the provisions of this Act, the amount of compensation shall be as follows namely

A Where death results from the injury—

(i) in the case of an adult, a sum equal to thirty months' wages or two thousand five hundred rupees, whichever is less, and

(ii) in the case of a minor, two hundred rupees

B Where permanent total disablement results from the injury—

(i) in the case of an adult, a sum equal to forty two months' wages or three thousand five hundred rupees, whichever is less, and

[1] For additions of employment and occupational diseases see List of General Statutory Rules and Orders and Gazette of India 1926 Pt I p 1067

(ii) in the case of a minor, a sum equal to eighty four months' wages or three thousand five hundred rupees, whichever is less,

C Where permanent partial disablement results from the injury—

(i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(ii) in the case of an injury not specified in Schedule I such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury,

Explanation —Where more injuries than one are caused by the same accident the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries

D Where temporary disablement whether total or partial results from the injury, a half monthly payment payable on the sixteenth day after the expiry of a waiting period of ten days from the date of the disablement and thereafter half-monthly during the disablement or during a period of five years whichever period is shorter,—

(i) in the case of an adult of fifteen rupees or a sum equal to one fourth of his monthly wages whichever is less, and

(ii) in the case of a minor of a sum equal to one third or, after he has attained the age of fifteen years to one half of his monthly wages but not exceeding in any case fifteen rupees

Provided that there shall be deducted from any lump sum or half monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half monthly payment, as the

(*Chapter II —Workmen's Compensation*)

case may be, and no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month

Method of calculating wages

5 For the purposes of section 4 the monthly wages of a workman shall be calculated as follows, namely —

(*a*) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period,

(*b*) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period

Provided that the sum arrived at by a calculation under clause (*a*) or clause (*b*) shall be increased or decreased, as the case may be, to the amount specified in the second column of Schedule IV against the head specified in the first column thereof within the limits of which such sum is included

Explanation —A period of service shall, for the purposes of this section, be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days

Review.

6. (*1*) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner on the application either of the employer or of the workman accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the workman or, subject to rules made under this Act, on application made without such certificate

(*Chapter II —Workmen s Compensation*)

(2) Any half monthly payment may on review under this section, subject to the provisions of this Act be continued increased decreased or ended or if the accident is found to have resulted in permanent disablement be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half monthly payments

7 Any right to receive half monthly payments may by agreemen between the parties or if the parties cannot agree and the payments have been continued for not less than six months on the application of either party to the Commissioner be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner as the case may be **Commutation of half monthly payments**

8 (1) Compensation payable in respect of a workman whose injury has resulted in death shall be deposited with the Commissioner and any sum so deposited shall be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit or may in the discretion of the Commissioner be allotted to any one such dependant and the sum so allotted to any dependant shall be paid to him or if he is a person under any legal disability be invested applied or otherwise dealt with for his benefit during such disability in such manner as the Commissioner thinks fit **Distribution of compensation**

(2) Any other compensation payable under this Act may be deposited with the Commissioner and when so deposited shall be paid by the Commissioner to the person entitled thereto

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any amount deposited with him under sub section (1) or sub section (2)

(4) On the deposit of any money under sub section (1) the Commissioner may deduct therefrom the actual cost of the workman s funeral expenses to an amount not exceeding fifty rupees and pay the same to the person by whom such expenses were incurred and shall if he thinks necessary cause notice to be published or to be served on each dependant in such manner as he thinks fit calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation If the Commissioner is satisfied after any inquiry which he may deem necessary that no dependant exists he shall repay the balance of the money to the employer by whom it was paid The Commissioner shall on application by the employer furnish a statement showing in detail all disbursements made

(Chapter II.—Workmen's Compensation.)

(5) Where a half monthly payment is payable under this Act to a person under any legal disability, the Commissioner may, of his own motion or on application made to him in this behalf, order that the half-monthly payment be paid during the disability to any dependant of the workman or to any other person whom he thinks best fitted to provide for the welfare of the workman.

(6) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

Compensation not to be assigned, attached or charged.

9. Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

Notice and claim.

10. (1) No proceedings for the recovery of compensation shall be maintainable before a Commissioner unless notice of the accident has been given, in the manner hereinafter provided, as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been instituted within six months of the occurrence of the accident or, in case of death, within six months from the date of death:

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease:

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Provided further that the Commissioner may admit and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been instituted, in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or institute the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon [1][any one of] several employers, or upon any person directly responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

(3) The notice may be served by delivering the same at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served.

Medical examination.

11. (1) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Act shall, if so required, submit himself for such examination from time to time:

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.

(2) If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

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1 These words were substituted for the words "any one or" by s. 2 and Sch. I of the Repealing and Amending Act, 1924 (7 of 1924).

(Chapter II —Workmen's Compensation)

(4) Where a workman, whose right to compensation has been suspended under sub section (2) or sub section (3), dies without having submitted himself for medical examination as required by either of those sub sections, the Commissioner may, if he thinks fit direct the payment of compensation to the dependants of the deceased workman

(5) Where under sub section (2) or sub section (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause D of sub section (1) of section 4 the waiting period shall be increased by the period during which the suspension continues

(6) Where an injured workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is thereafter proved that the workman has not been regularly attended by a qualified medical practitioner and that such refusal, failure or disregard was unreasonable in the circumstances of the case and that the injury has been aggravated thereby the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a qualified medical practitioner, and compensation, if any, shall be payable accordingly

Contracting

12 (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him, and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed

(2) Where the principal is liable to pay compensation under this section he shall be entitled to be indemnified by the contractor, and all

(Chapter II.—Workmen's Compensation.)

questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal

(4) This section shall not apply in any case where the accident occurred elsewhere than on in or about the premises on which the principal has undertaken or usually undertakes as the case may be to execute the work or which are otherwise under his control or management

13 Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid **Remedies of employer against stranger**

14 (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so however, that the insurers shall not be under any greater liability to the workman than they would have been under to the employer **Insolvency of employer**

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman the workman may prove for the balance in the insolvency proceedings or liquidation

(3) Where in any case such as is referred to in sub section (1) the contract of the employer with the insurer is void or voidable by reason of non compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub section shall apply as if the contract were not

(*Chapter II.—Workmen's Compensation. Chapter III.—Commissioners.*)

the time being in British India relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

Returns as to compensation.

16. The Governor General in Council may, by notification[1] in the Gazette of India, direct that every person employing workmen or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the Governor General in Council may direct.

Contracting out.

17. Any contract or agreement whether made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

Proof of age.

18. Where any question arises as to the age of a person injured by accident arising out of and in the course of his employment in a factory, a certificate granted in respect of such person under section 7 or section 8 of the Indian Factories Act, 1911, before the occurrence of the injury shall be conclusive proof of the age of such person. XII

CHAPTER III

COMMISSIONERS

Reference to Commissioners.

19. (*1*) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by the Commissioner.

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

Appointment of Commissioners.

20. (*1*) The Local Government may, by notification in the local official Gazette, appoint[2] any person to be a Commissioner for Workmen's Compensation for such local area as may be specified in the notification.

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[1] For Notification prescribing the form etc. see Gen. R. and O. Vol. V, p. 259 and Gazette of India, 1927, Pt. I, p. 305, *ibid*, 1928, Pt. I, p. 517.

[2] For such appointment in Baluchistan see Baluchistan Local Rules and Orders, Pt. II, p. 244, in Coorg see Coorg District Gazette, 1924, Pt. I, p. 108.

(Chapter III —Commissioners)

(2) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry

(3) Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code
1860

Venue of proceedings and transfer.

21. (1) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder be done by or before the Commissioner for the local area in which the accident took place which resulted in the injury

Provided that, where the workman is the master of a registered ship or a seaman, any such matter may be done by or before the Commissioner for the local area in which the owner or agent of the ship resides or carries on business

(2) If a Commissioner is satisfied by any party to any proceedings under this Act pending before him that such matter can be more conveniently dealt with by any other Commissioner, whether in the same province or not, he may subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings

Provided that no matter other than a matter relating to the actual payment to a workman or the distribution among dependants of a lump sum shall be transferred for disposal under this sub-section to a Commissioner in the same province save with the previous sanction of the Local Government or to a Commissioner in another province save with the previous sanction of the Governor General in Council unless all the parties to the proceedings agree to the transfer

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act inquire thereinto and if the matter was transferred for report, return his report thereon or if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him

(*Chapter III —Commissioners*)

(*4*) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub section (*2*) the Commissioner by whom it was referred shall decide the matter referred in conformity with such report

Form of application

22 (*1*) No application for the settlement of any matter by a Commissioner shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement

(2) Where any such question has arisen the application may be made in such form and shall be accompanied by such fee if any as may be prescribed and shall contain in addition to any particulars which may be prescribed the following particulars namely —

(*a*) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims

(*b*) in the case of a claim for compensation against an employer the date of service of notice of the accident on the employer and if such notice has not been served or has not been served in due time the reason for such omission

(*c*) the names and addresses of the parties and

(*d*) a concise statement of the matters on which agreement has and [1][of] those on which agreement has not been come to

(*3*) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing the application shall if the applicant so desires be prepared under the direction of the Commissioner

Powers and procedure of Commissioners

23 The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure 1908 for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects V of

Appearance of parties

24 Any appearance application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or other person authorised in writing by such person

[1] This word was substituted for the word on by s 2 and Sch I of the Repealing and Amending Act 1925 (37 of 1925)

(Chapter III —Commissioners)

25 The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record — Method of recording evidence

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record

Provided, further, that the evidence of any medical witness shall be taken down as nearly as may be word for word

26 All costs incidental to any proceedings before a Commissioner shall, subject to rules made under this Act, be in the discretion of the Commissioner — Costs

27. A Commissioner may, if he thinks fit, submit any question of law for the decision of the High Court and if he does so, shall decide the question in conformity with such decision — Power to submit cases

28 (1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half monthly payment or otherwise, or where any compensation has been so settled as being payable to a person under a legal disability, [1]* * * a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner — Registration of agreements

Provided that—

(a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned

(b) where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation and the employer proves that the workman has in fact returned to work and is earning the same wages as he did before the accident and objects to the recording of such memorandum the memorandum shall only be recorded if at all on such terms as the Commissioner thinks just in the circumstances

(c) the Commissioner may at any time rectify the register

[1] The words "or to a dependant" were repealed by s 3 and Sch II of the Repealing and Amending Act 1924 (7 of 1924)

(*Chapter III —Commissioners*)

(*d*) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a person under any legal disability, [1]* * * ought not to be registered by reason of the inadequacy of the sum or amount or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement [2][and may make such order], including an order as to any sum already paid under the agreement as he thinks just in the circumstances

(2) An agreement for the payment of compensation which has been registered under sub section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872, or in any other law for the time being in force IX of

Effect of failure to register agreement

29. Where a memorandum of any agreement, the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (1) of section 4 shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise

Appeals

30. (*1*) An appeal shall lie to the High Court from the following orders of a Commissioner, namely —

(*a*) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

(*b*) an order refusing to allow redemption of a half monthly payment,

(*c*) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant,

(*d*) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub section (2) of section 12, or

[1] The words 'or to any dependant' were repealed by s 3 and Sch II of the Repealing and Amending Act 1924 (7 of 1924)

[2] These words were substituted for the words "or may make such order" by s 2 and Sch I, *ibid*

(c) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees:

Provided further that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties.

(2) The period of limitation for an appeal under this section shall be sixty days.

008 (3) The provisions of section 5 of the Indian Limitation Act, 1908, shall be applicable to appeals under this section.

31. The Commissioner may recover as an arrear of land-revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section [illegible] of the Revenue Recovery Act, 1890. Recovery.

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CHAPTER IV.

RULES.

32. (1) The Governor General in Council may make rules[1] to carry out the purposes of this Act. Power of the Governor General in Council to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate;

(b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under sub-section (1) of section 11;

1 For Workmen's Compensation Rules, 1924, see Gen. R. and O., Vol. V, p. 262, and for corrections thereto see Gazette of India, 1926, Pt. I, p. 1263; ibid., 1927, Pt. I, p. 548; ibid., 1928, Pt. I, p. 407.

(c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases;

(d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;

(e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another;

(f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;

(g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered;

(h) for the withholding by Commissioners, whether in whole or in part, of half-monthly payments pending decision on applications for review of the same; and

(i) for any other matter which is not, in the opinion of the Governor General in Council, a matter of merely local or provincial importance.

Power of Local Government to make rules.

33. The Local Government may, subject to the control of the Governor General in Council, make rules[1] to provide for all or any of the following matters, namely:—

(a) for regulating the scales of costs which may be allowed in ...

(d) for prescribing the classes of employers who shall maintain notice-books under sub-section (3) of section 10, and the form of such notice books;

(e) for prescribing the form of statement to be submitted by employers under section 10A;

(f) for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner; and

(2) The date to be specified in accordance with clause (3) of section
of 1897. 23 of the General Clauses Act, 1897, as that after which a draft of rules proposed to be made under section 32 or section 33 will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(3) Rules so made shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication, shall have effect as if enacted in this Act.

SCHEDULE I

[See sections 2 (1) and 4.]

List of injuries deemed to result in permanent partial disablement.

Injury	Percentage of loss of earning capacity
Loss of right arm above or at the elbow	70
Loss of left arm above or at the elbow	60
Loss of right arm below the elbow	60
Loss of leg at or above the knee	60
Loss of left arm below the elbow	50
Loss of leg below the knee	50
Permanent total loss of hearing	50
Loss of one eye	30
Loss of thumb	25
Loss of all toes of one foot	20
Loss of one phalanx of thumb	10
Loss of index finger	10
Loss of great toe	10
Loss of any finger other than index finger	5

NOTE.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

(Schedule II)

SCHEDULE II

[*See section 2 (1) (n)*]

List of persons who, subject to the provisions of section 2 (1) (n), are included in the definition of workmen

The following persons are workmen within the meaning of section 2 (1) (n) and subject to the provisions of that section, that is to say, any person who is—

(i) employed in connection with the service of a tramway as defined in section 3 of the Indian Tramways Act 1886 or XI of 1886

(ii) employed within the meaning of clause (2) of section 2 of the Indian Factories Act, 1911, in any place which is a XII of 1911 factory within the meaning of sub clause (a) of clause (3 of that section, or

(iii) employed within the meaning of clause (d) of section 3 of the Indian Mines Act 1923 in any mine which is subject IV of 1923. to the operation of that Act, or

(iv) employed as the master of a registered ship or as a seaman, or

(v) employed for the purpose of loading, unloading or coaling any ship at any pier, jetty, landing place, wharf, quay, dock, warehouse or shed, on, in or at which steam, water or other mechanical power or electrical power is used, or

(vi) employed in the construction, repair or demolition of—

(a) a building which is designed to be, is, or has been more than one storey in height above ground level, or

(b) a building which is used, has been used, or is designed to be used, for industrial or commercial purposes and is, has been or is designed to be, not less than twenty feet in height measured from ground level to apex of the roof, or

(c) a bridge which is, has been or is designed to be more than fifty feet in length, or

(vii) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any overhead electric cable, or

(viii) employed in the construction, inspection or upkeep of any underground sewer, or

(ix) employed in the service of any fire brigade

SCHEDULE III.

(See section 3.)

List of occupational diseases.

Occupational disease.	Employment
Lead poisoning or its sequelae	Any process involving the use of lead or its preparations or compounds
Phosphorus poisoning or its sequelae	Any process involving the use of phosphorus or its preparations or compounds

SCHEDULE IV.

(See section 5.)

Table of assumed wages.

Limits								Assumed Wages.		
Where the sum arrived at by a calculation under clause (a) or clause (b) of section 5 is—										
	Rs.	A	P		Rs	A	P	Rs	A.	P.
less than	0	0	0					8	0	0
not less than	0	0	0	but less than	11	0	0	10	0	0
"	11	0	0	ditto	13	0	0	12	0	0
"	13	0	0	ditto	17	8	0	15	4	0
"	17	8	0	ditto	22	8	0	20	0	0
"	22	8	0	ditto	27	8	0	25	0	0
"	27	8	0	ditto	32	8	0	30	0	0
"	32	8	0	ditto	37	8	0	35	0	0
"	37	8	0	ditto	42	8	0	40	0	0
"	42	8	0	ditto	50	0	0	46	4	0
"	50	0	0	ditto	60	0	0	55	0	0
"	60	0	0	ditto	70	0	0	65	0	0
"	70	0	0	ditto	80	0	0	75	0	0
"	80	0	0					83	5	4

ACT No. IX of 1923[1]

[*5th March, 1923.*]

An Act further to amend the Indian Factories Act, 1911.

WHEREAS it is expedient further to amend the Indian Factories Act, 1911, it is hereby enacted as follows:— (I of 1911.)

1. This Act may be called the Indian Factories (Amendment) Act, 1923. (Short title.)

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 74.

Addition of new sub section to section 22 Act XII of 1911

2. To section 22 of the Indian Factories Act, 1911 (hereinafter referred to as the said Act), the following sub section shall be added, namely —

"(2) where, in accordance with the provisions of sub section (1) any person is employed on a Sunday in consequence of his having had a holiday on one of the three days preceding that Sunday, that Sunday shall for the purpose of calculating the weekly hours of work of such person, be deemed to be included in the preceding week "

Amendment of section 37 Act XII of 1911

3 In section 37 of the said Act, for clause (j) of sub section (2) the following clause shall be substituted namely —

(j) the parts of the machinery and electrical fittings to be kept fenced in accordance with section 18, sub section (1), clause (c), and the provisions to be made for the protection from danger of persons employed in attending to the machinery, electrical fittings or boilers "

Amendment of section 41 Act XII of 1911.

4 In clause (g) of section 41 of the said Act, for the figures and letter "19B" the figures and letter 19A shall be substituted

Amendment of section 50, Act XII of 1911

5 Sub section (2) of section 50 of the said Act shall be omitted

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ACT No X OF 1923 [1]

[5th March, 1923]

An Act to consolidate the law relating to the Government Paper Currency

WHEREAS it is expedient to consolidate the law relating to the Government Paper Currency It is hereby enacted as follows —

Preliminary

Short title and extent

1 (1) This Act may be called the Indian Paper Currency Act, 1923

(2) It extends to the whole of British India, inclusive of British Baluchistan and the Sonthal Parganas

Definitions

2 In this Act, " universal currency note " means—

(a) a note of the denominational value of one rupee, two and a half rupees five rupees, ten rupees, fifty rupees or one hundred rupees, or

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[1] For Statement of Objects and Reasons see Gazette of India 1923 Pt V, p 90

(b) a note of any other denominational value which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf,

[1][and 'gold bullion' includes gold coin.]

The Currency Department

3. There shall continue to be a Department of the public service to be called the Currency Department, whose function shall be the issue of promissory notes of the Government of India to be called currency notes, payable to bearer on demand, and of such denominational values as the Governor General in Council may direct. Currency Department for issue of currency notes.

4. At the head of the Department there shall be an officer to be called the Controller of the Currency (hereinafter referred to as the Controller). Controller of the Currency.

5. The Governor General in Council may, by notification in the Gazette of India,— Power to establish circles of issue, offices of issue and currency agencies.

(a) establish districts to be called circles of issue, seven of which circles shall include the towns of Calcutta, Madras, Bombay, Rangoon, Lahore, Cawnpore and Karachi, respectively;

(b) appoint in each circle some one town to be the place of issue of currency notes as hereinafter provided;

(c) establish in each such town an office or offices of issue; and

(d) establish in any town situate in any circle an office to be called a currency agency.

6. For each circle of issue there shall be an officer in charge to be called the Deputy Controller of the Currency, and for each Currency Agency an officer to be called the Currency Agent. Deputy Controllers of the Currency and Currency Agents.

7. For the purposes of this Act— Subordination of Officers.

(a) Deputy Controllers of the Currency shall be subordinate to the Controller; and

(b) the Currency Agent at any town shall be subordinate to the Deputy Controller of the Currency for the circle of issue in which that town is situate.

8. All officers under this Act shall be appointed by the Governor General in Council. Appointment of Officers.

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[1] These words were added by s. 3 of the Currency Act, 1927 (4 of 1927).

Supply and Issue of Currency Notes

Controller and Deputy Controllers to provide and distribute currency notes

9. (*1*) The Controller shall provide currency notes of the denominational values prescribed under this Act, and shall supply the Deputy Controllers with such notes as they need for the purposes of this Act

(*2*) The Deputy Controllers shall supply the Currency Agents subordinate to them, respectively, with such notes as those Agents need for the purposes of this Act

(*3*) Every such note other than a universal currency note, shall bear upon it the name of the town from which it is issued

Signatures to currency notes

10. The name of the Controller or one of the Deputy Controllers, or of some other person authorised by the Controller or by one of the Deputy Controllers, to sign currency notes, shall be subscribed to every such note, and may be impressed thereon by machinery, and, when so impressed, shall be deemed to be a valid signature

Issue of currency notes for silver coin by officers in charge of circles

11. The officers in charge of circles of issue shall, in their respective circles on the demand of any person, issue, from the office or offices of issue established in their respective circles, currency notes of the denominational values prescribed under this Act, in exchange for the amount thereof—

(*a*) in rupees or silver half-rupees [1]* * * or

(*b*) in rupees made and declared to be a legal tender under the provisions of the Native Coinage Act, 1876 IX of 1876

Issue of currency notes for silver or gold coin by Currency Agents

12 Any Currency Agent to whom currency notes have been supplied under section 9 may, if he thinks fit, on the demand of any person, issue from his agency any such notes in exchange for the amount thereof in any coin specified in section 11

Issue to Government Treasuries of currency notes for gold bullion

13 The officers in charge of circles of issue shall, on the requisition of the Controller issue to any Government Treasury currency notes in exchange [2]* * * for gold bullion at the rate of one rupee for [3][8·47512] grains troy of fine gold

Currency Notes where legal tender and where payable

Currency notes where legal tender

14 A universal currency note shall be a legal tender at any place in British India, and

any other currency note shall be a legal tender at any place within the circle from which the note was issued,

[1] The words "or in gold coin which is legal tender under the Indian Coinage Act, 1906" were omitted by s. 3 of the Currency Act 1927 (4 of 1927)

[2] The words "for gold coin which is not legal tender under the Indian Coinage Act, 1906 or" were omitted *ibid*

[3] These figures were substituted for the figures "11·30016", *ibid*

for the amount expressed in the note in payment or on account of—

(i) any revenue or other claim, to the amount of one rupee or upwards, due to the Government of India, and

(ii) any sum of one rupee or upwards due by the Government of India or by any body corporate or other person in British India

Provided that no currency note shall be deemed to be a legal tender by the Government of India at any office of issue

Currency notes where payable

15. A currency note shall be payable at the following offices of issue, namely

(a) a universal currency note at any office of issue

(b) a currency note other than a universal currency note at any office of issue in the town from which it was issued

Provided that any such note issued before the 16th day of February, 1910, shall also be payable —

(i) in the case of a note issued from the office at Cawnpore or Lahore at any office of issue in Calcutta, and

(ii) in the case of a note issued from the office at Karachi, at any office of issue in Bombay

Currency notes issued from currency agencies where deemed to be issued

16 For the purposes of sections 14 and 15 currency notes issued from any currency agency shall be deemed to have been issued from the town appointed under section 5 to be the place of issue in the circle of issue in which that agency is established

Provision in case of closure of office

17 Where an office of issue is closed the Governor General in Council shall, by notification in the Gazette of India direct that with effect from the date of the closing of such office all currency notes issued therefrom shall for the purposes of sections 14 and 15, be deemed to have been issued from such other office as may be specified in such notification

Reserve

Paper Currency Reserve

18 (1) The provisions contained in this section shall not come into operation until such day (hereinafter referred to as the appointed day) as the Governor General in Council may direct in this behalf

(2) A Reserve shall be maintained for the satisfaction and discharge of the currency notes in circulation and all such notes shall be deemed to have been issued on the credit of the revenues of India as well as on that of the Reserve

(3) Save as hereinafter provided in section 20, the whole amount of currency notes at any time in circulation shall not exceed the total amount represented by the [1]* * rupees, silver half rupees and gold bullion, and the sum expended in the purchase of the silver bullion and securities, which are for the time being held by the Secretary of State for India in Council and by the Governor General in Council as a reserve to provide for the satisfaction and discharge of the said notes and the said notes shall be deemed to have been issued on the credit of the revenues of India as well as on the security of the said coin, bullion and securities

Provided that, for the purposes of this sub section currency notes which have not been presented for payment, in the case of notes of the denominational value of fifty or one hundred rupees within forty years, and, in the case of notes of any denominational value exceeding one hundred rupees, within one hundred years, from the first day of April following the date of their issue, shall be deemed not to be in circulation

Provided, further, that all notes which are declared under the first proviso to this sub section not to be in circulation shall be deemed to have been issued on the credit of the revenues of India and shall, if subsequently presented for payment, be paid from such revenues

[2][*Explanation* —For the purposes of this sub section, [3][gold bullion shall be reckoned at the rate of one rupee for 8 47512 grains troy of fine gold and] the sum expended in the purchase of silver bullion obtained by melting down silver coin issued under the authority of the Governor General in Council shall be deemed to be the value of the bullion calculated at the rate of one rupee for 165 grains troy of fine silver]

(4) The securities mentioned in sub section (3) shall be securities of the United Kingdom of Great Britain and Ireland or of the Government of India, or securities issued by the Secretary of State for India in Council under the authority of Act of Parliament and charged on the revenues of India, and the value of them at the price at which they are purchased shall not exceed [4][one thousand] millions of rupees

[1] The words "sovereigns half sovereigns" were omitted by s 3 of the Currency Act 1927 (4 of 1927)

[2] This *Explanation* was added by s 3 of the Indian Paper Currency (Amendment) Act 1923 (36 of 1923)

[3] These words were inserted by s 3 of the Currency Act 1927 (4 of 1927)

[4] These words were substituted for the words "eight hundred and fifty" by s 2 of the Indian Paper Currency (Amendment) Act, 1925 (2 of 1925)

[1][Provided that the value of created securities included in the said securities at the price at which they were purchased shall not exceed five hundred millions of rupees.]

(5) If the Secretary of State for India in Council consents to hold in gold [2] * * bullion or in silver bullion or in securities of the kinds mentioned in sub-section (1), the equivalent in value to notes issued in India as a reserve to secure the payment of such notes, the Governor General in Council may from time to time direct that currency notes shall be issued to an amount equal to the value of the [3] *, bullion and securities so held by the Secretary of State for India in Council.

Issue of currency notes for certain gold or silver bullion or securities held by Secretary of State.

(6) Notwithstanding anything to the contrary in this Act, any securities created by the Government of India and issued to the Controller shall, for the purposes of this Act, be deemed to be securities purchased by the Governor General in Council, and the market price, on the day such securities were so issued, of similar securities shall be deemed to be the price at which the securities so created were purchased, and all references to securities so purchased, wherever occurring in this Act shall be deemed also to refer to securities so created and all references to sums expended in such purchases or to prices paid therefor shall be deemed in the case of securities so created to refer to such prices and this Act shall be construed accordingly.

(7) As long as the value of securities created by the Government of India and issued to the Controller and deemed in accordance with the provisions of the foregoing sub-section to be securities purchased by the Governor General in Council exceeds one hundred and twenty millions of rupees, all interest derived from the securities in the Reserve shall with effect from the first day of April [4][1929] be applied in reduction of such excess holding of securities and the Auditor General shall in every year grant a certificate of the amount of such interest and shall also certify whether or not it has been so applied. For the purposes of this sub-section securities so created and issued shall be deemed to carry interest at the same rate as other similar securities.

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[1] This proviso was added by s. 2 of the Indian Paper Currency (Amendment) Act 1925 (2 of 1925).

[2] The words "coin or" were omitted by s. 3 of the Currency Act 1927 (4 of 1927).

[3] The word "coin" was omitted, *ibid*.

[4] These figures were substituted for the figures "1927" by s. 6 of the Indian Finance Act, 1927.

(8) The securities purchased by the Governor General in Council shall be securities of the Government of India, and shall be held by the Controller and the Master of the Mint at Calcutta or of such other Mint as the Governor General in Council may direct in this behalf in trust for the Secretary of State for India in Council

Power to issue currency notes against bills of exchange

20. Notwithstanding anything to the contrary in section 18 or section 19, the Governor General in Council may authorise the Controller to issue currency notes to an amount in all not exceeding [1][one hundred and twenty] millions of rupees against bills of exchange which will mature within ninety days from the date of such issue and satisfy such other conditions as the Governor General in Council may, by general or special order, prescribe Currency notes so issued shall be in addition to those against which the Reserve is held and shall be deemed to have been issued on the credit of such bills and of the revenues of India and shall when presented, be paid from such revenues

Power to dispose of coin and bullion in reserve

21 Subject to the provisions of sections 18 and 19, the Governor General in Council may at any time, if he thinks it expedient, convert any of the coin or bullion for the time being held by him as a part of the reserve into coin of any of the kinds mentioned in section 11 or into gold or silver bullion

Coin or bullion not in India when deemed to be part of the reserve

22 Notwithstanding anything to the contrary in this Act, any coin or bullion which is held by or on behalf of the Secretary of State for India in Council in the United Kingdom or under the control of the Government of any part of His Majesty s Dominions for the purpose of coinage for or transmission to, the Governor General in Council and any coin or bullion which is in course of transmission from the Secretary of State for India in Council or the Government of any part of His Majesty s Dominions to the Governor General in Council and any coin or bullion which is in the course of transmission from the Governor General in Council to the Secretary of State for India in Council or the Government of any part of His Majesty s Dominions shall be deemed during the period such coin or bullion is so held or is so in course of transmission to be part of the reserve referred to in sections 18 and 19

Power to sell and replace Indian securities

23 (1) The Controller may, at any time, when ordered so to do by the Governor General in Council sell and dispose of any of the securities held under sub section (9) of section 18 or sub section (8) of section 19

1 These words were substituted for the word "fifty" by s 4 of the Indian Paper Currency (Amendment) Act 1923 (36 of 1923)

(2) For the purpose of effecting such sales, the Master of the Mint at Calcutta or of such other Mint as aforesaid shall, on a request in writing from the Controller at all times sign and endorse the securities, and the Controller, if so directed by the Governor General in Council, may purchase securities of the Government of India to replace such sales.

24. An account showing the amount of the interest accruing on the securities held as part of the reserve under this Act and the expenses and charges incidental thereto, shall be rendered annually by the Controller to the Governor General in Council, and published annually in the Gazette of India. **Account of interest on securities.**

Private Bills payable to Bearer on Demand

25. No person in British India shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand of any such person. **Prohibition of issue of private bills or notes payable to bearer on demand.**

Provided that cheques or drafts, payable to bearer on demand or otherwise, may be drawn on bankers, shroffs or agents by their customers or constituents, in respect of deposits of money in the hands of those bankers shroffs or agents and held by them at the credit and disposal of the persons drawing such cheques or drafts.

26. (1) Any person contravening the provisions of section 25 shall, on conviction by a Presidency Magistrate or a Magistrate of the first class, be punishable with a fine equal to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed. **Penalty for issuing such bills or notes and institution of prosecutions.**

(2) Every prosecution under this section shall be instituted by the officer in charge of the circle of issue in which the bill, hundi, note or engagement is drawn, accepted, made or issued.

Supplementary Provisions

27. An abstract of the accounts of the Currency Department, showing— **Abstracts of accounts.**

(a) the whole amount of currency notes in circulation,

(b) the amount of coin and bullion reserved, distinguishing gold from silver, and showing separately the amount of coin or bullion held by or on behalf of the Secretary of State for India in Council, or in transit from or to India, or in the custody of the Mint Master during coinage;

(c) the nominal value of, and the price paid for, the securities held as part of the reserve, showing separately those held by the Secretary of State for India in Council and those held in India under sub section (9) of section 18 or sub-section (8) of section 19, and

(d) the amount of currency notes issued against bills of exchange under the provisions of section 20,

shall be made up four times in each month by the Controller and published, as soon as may be, in the Gazette of India

Provision as to lost, mutilated and imperfect notes

28. Notwithstanding anything contained in any enactment or rule of law to the contrary, no person shall as of right be entitled to recover from the Government of India the value of any lost, mutilated or imperfect currency note

Provided that the Governor General in Council may by rule prescribe the circumstances, conditions and limitations under which the value of such notes may be refunded as of grace

Power to make rules

29. (1) The Governor General in Council may make rules to carry out the purposes and objects of this Act

(2) In particular and *without prejudice to the generality of the* foregoing power, such rules may—

(a) fix the denominational values for which currency notes shall be issued,

(b) provide for the alteration of the limits of any of the circles of issue,

(c) declare the places at which currency notes shall be issued, and

(d) prescribe the circumstances in, and the conditions and limitations subject to, which the value of lost, mutilated or imperfect currency notes may be refunded at the office of issue

(3) Every such rule shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act

Repeals

30 The enactments mentioned in the Schedule are hereby repealed to the extent specified in the last column thereof

Provided that all securities purchased and notes issued under the Indian Paper Currency Act, 1910, and all securities and notes which, under section 30 of that Act, are to be deemed to have been purchased II of 1910

or issued thereunder shall, if undisposed of or in circulation at the commencement of this Act, be deemed to have been respectively purchased and issued under this Act

Provided, further, that all currency notes, which, under the said section 30, are to be deemed to have been issued from the office of issue in the town of Cawnpore, shall still be deemed to have been issued from that office

THE SCHEDULE

[ENACTMENTS REPEALED]

(*See section 30*)

Year.	No	Short title	Extent of repeal
1910	II	The Indian Paper Currency Act, 1910	So much as has not been repealed
1911	VII	The Indian Paper Currency (Amendment) Act, 1911	The whole
1914	X	The Repealing and Amending Act, 1914	So much of the Second Schedule as relates to the Indian Paper Currency Act, 1910
1917	XIX	The Indian Paper Currency (Amendment) Act, 1917	So much as has not been repealed
1920	XLV	The Indian Paper Currency (Amendment) Act, 1920	The whole
1922	XII	The Indian Finance Act 1922	Section 6

ACT No XI OF 1923 [1]

[*5th March, 1923*]

An Act to amend certain enactments and to repeal certain other enactments

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule,

AND WHEREAS it is also expedient that certain enactments specified in the Second Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by express specific repeal, should be expressly and specifically repealed,

1 For Statement of Objects and Reasons *see* Gazette of India, 1923, Pt V, p 96

It is hereby enacted as follows —

Short title — **1.** This Act may be called the Repealing and Amending Act, 1923

Amendment of certain enactments — **2.** The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

3. [*Repeal of certain enactments*] *Repealed by s 2 and Sch. of the Repealing Act, 1927 (12 of 1927).*

4. [*Savings*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)*

THE FIRST SCHEDULE

AMENDMENTS

(*See section 2*)

Year	Number	Short title	Amendments
		Acts of the Governor General in Council	
1867	XXV	The Press and Registration of Books Act, 1867	In section 17, for the words "the last foregoing section" the word and figures "section 16" shall be substituted In section 21, before the words "the Local Government" the words "the Governor General in Council or" and before the words "the local Gazette" the words "the Gazette of India or" shall be inserted and after the words "local Gazette" the words "as the case may be" shall be inserted
1869	IV	The Indian Divorce Act, 1869	(1) In section 3, clause (*1*), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted (2) In section 3, clause (*2*), for the word "Divisional" the word "District" shall be substituted
1870	VII	The Court fees Act, 1870	In Article 14, Schedule I, for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1877	I	The Specific Relief Act, 1877	In section 45, for the words "and Bombay" the words "Bombay and Rangoon" shall be substituted.

THE FIRST SCHEDULE—*contd*

Year	Number	Short title	Amendments
1890	IX	The Indian Railways Act, 1890	In sub-section (*6*) of section 59, for the words and figures "a person enrolled as a volunteer under the Indian Volunteers Act, 1869" the words "a member of the Indian Territorial Force or of the Auxiliary Force India" shall be substituted
1891	XVI	The Colonial Courts of Admiralty (India) Act, 1891	In section 2 clause (*4*) for the words 'Chief Court of Lower Burma' the words High Court of Judicature at Rangoon shall be substituted
1897	X	The General Clauses Act, 1897	After section 30, the following section shall be inserted, namely — '30A In this Act the expression Act of the Governor General in Council' wherever it occurs, except in section 5, shall be deemed to include an Act made by the Governor General under section 67B of the Government of India Act *(Application of Act to Acts made by the Governor General.)*
1898	V	The Code of Criminal Procedure, 1898	In section 4, sub-section (*1*) clause (*j*), the word and where it occurs between the words Patna and Lahore shall be omitted and for the words the *Chief Court of Lower Burma* the words 'and Rangoon' shall be substituted
1899	II	The Indian Stamp Act, 1899	In section 57 sub section (*1*) clause (*d*), for the words Chief Court of Lower *Burma the words High Court of* Judicature at Rangoon shall be substituted
1899	IX	The Indian Arbitration Act 1899	In section 23 sub section (*1*) for the words Chief Court of Lower Burma ' the words "High Court of Judicature at Rangoon ' shall be substituted
1908	IX	The Indian Limitation Act 1908	In the second column of the First Schedule — (1) For each of the entries in Articles 4 and 5 the entry six months ' shall be substituted (2) For each of the entries in Articles 7 to 31 the entry one year ' shall be substituted (3) For each of the entries in Articles 33 to 36 the entry Two years ' *shall be substituted* (4) For each of the entries in Articles 38 to 115 and for the entry in Article 181 the entry Three years shall be substituted

THE FIRST SCHEDULE—*contd*

Year.	Number	Short title.	Amendments
			(5) For each of the entries in Articles 117 to 120 the entry "Six years" shall be substituted (6) For each of the entries in Articles 122 to 144 the entry "Twelve years" shall be substituted (7) For each of the entries in Articles 146 and 146A the entry "Thirty years" shall be substituted. (8) For each of the entries in Articles 148 and 149 the entry "Sixty years" shall be substituted (9) For each of the entries in Articles 153, 154 and Articles 164 to 170 the entry "Thirty days" shall be substituted (10) For the entry in Article 159 the entry "Ten days" shall be substituted (11) For the entry in Article 161 the entry "Fifteen days" shall be substituted (12) For the entry in Article 172 the entry "Sixty days" shall be substituted (13) For each of the entries in Articles 174 and 177 the entry "Ninety days" shall be substituted
1911	II	The Indian Patents and Designs Act, 1911.	In sub section (*1*) of section 78A, after the words "United Kingdom" where they first occur, the words "or his legal representative or assignee" shall be inserted
1912	IV	The Indian Lunacy Act, 1912.	
1917	I	The Inland Steam Vessels Act, 1917.	In section 22 A (*1*), for the words "as to such Government" the words "as such Government" shall be substituted
1918	XVI	The Provisional Collection of Taxes Act, 1918	In section 2, for the words "a Member of the Executive Council of the Governor General" the words "any officer of Government acting on behalf of the Governor General in Council," shall be substituted

THE FIRST SCHEDULE—*concld*

Year	Number	Short title	Amendments
			After section 3 the following section shall be inserted, namely:— ' 4 A declaration such as is referred to in section 2 may be made in respect of any provision of a Bill of the nature described in that section which provides for the imposition or variation of any tax in the nature of customs or excise duties and where such declaration has been made in respect of any such provision this Act shall have effect as if references to the Bill were references to such provision " (Application of Act to specified clause of a Bill.)
1920	XXVI	The Indian Limitation and Code of Civil Procedure (Amendment) Act, 1920	For section 2 the following section shall be substituted, namely — "2 In the Third Division of the First Schedule to the Indian Limitation Act, 1908, in Articles 176, 177 and 179, for each of the entries in the second column the entry "ninety days" shall be substituted, and in Article 178, for the entry in the second column the entry ' six months shall be substituted '
1921	IX	The Enemy Missions Act, 1921	In the Schedule, for the word Budla ' in the fourth column of the entries relating to the Assam Roman Catholic Mission Trust the words ' Budla Beta shall be substituted
1922	II	The Indian Factories (Amendment) Act 1922	In section 25 (*b*) for the figures and letter 19B the figures and letter ' 19A shall be substituted
Regulation by the Governor General in Council			
1874	VIII	The Arakan Hills Civil Justice Regulation, 1874	In section 76 for the words ' Chief Court of British Burma the words " High [illegible] stituted

[THE SECOND SCHEDULE]

[Repeals] Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)

ACT No XII of 1923[1]

[*16th March, 1923*]

An Act further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the [2]Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings; It is hereby enacted as follows —

V of 1898. IX of 1874. IX of 1908. C P Act I of 1917.

Short title and commencement.

1. (*1*) This Act may be called the Criminal Law Amendment Act, 1923

(*2*) It shall come into force on such [3]date as the Governor General in Council may, by notification in the Gazette of India, appoint

Amendment of section 4, Code of Criminal Procedure, 1898

2. (*1*) In sub-section (*1*) of section 4 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code), for clause (*i*) the following clause shall be substituted, namely — V of 1898.

European British subject

"(*i*) 'European British subject' means—

(i) any subject of His Majesty of European descent in the male line born, naturalised or domiciled in the British Islands or any Colony, or

(ii) any subject of His Majesty who is the child or grand child of any such person by legitimate descent "

(*2*) In clause (*j*) of the same sub-section, after the word "Rangoon" the words "and the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind" shall be inserted

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt I, p 96

[2] Central Provinces Code

[3] Brought into force from 1st September, 1923—*vide* Notification No F 222 23, dated the 10th August, 1923, Gen R and O, Vol V p 317

Amendment of section 22 Code of Criminal Procedure 1898

3. In section 22 of the said Code the words and brackets "(other than the presidency-towns)" shall be omitted, and for the words "European British subjects" the words "persons resident within British India and not being the subjects of any foreign State" shall be substituted.

4. [*Repeal of sections 23 and 24, Code of Criminal Procedure, 1898.*] *Repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).*

Amendment of section 29, Code of Criminal Procedure 1898

5. In sub-section (*1*) of section 29 of the said Code, for the words and figures "provisions of section 447" the words "other provisions of this Code" shall be substituted.

Insertion of new section 29A in the Code of Criminal Procedure, 1898

6. After section 29 of the said Code the following section shall be inserted, namely:—

Trial of European British subjects by second and *third class* Magistrates

"29A. No Magistrate of the second or third class shall inquire into or try any offence which is punishable otherwise than with fine not exceeding fifty rupees where the accused is an European British subject who claims to be tried as such."

Insertion of new section 34A in the Code of Criminal Procedure, 1898

7. After section 34 of the said Code the following section shall be inserted, namely:—

Sentences which Courts and Magistrates may pass upon European British subjects

"34A. Notwithstanding anything contained in sections 31, 32 and 34—

(*a*) no Court of Session shall pass on any European British subject any sentence other than a sentence of death, penal servitude, or imprisonment with or without fine, or of fine, and

(*b*) no District Magistrate or other Magistrate of the first class shall pass on any European British subject any sentence other than imprisonment which may extend to two years, or fine which may extend to one thousand rupees, or both."

8. [*Repeal of section 111, Code of Criminal Procedure, 1898.*] *Repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).*

Amendment of section 206 Code of Criminal Procedure, 1898

9. In sub section (*1*) of section 206 of the said Code the words and figures "Subject to the provision of section 443" shall be omitted

10. [*Repeal of section 214, Code of Criminal Procedure, 1898*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)*

Amendment of section 215, Code of Criminal Procedure, 1898

11. In section 215 of the said Code, the words and figures "or section 214" shall be omitted

Amendment of section 266, Code of Criminal Procedure, 1898

12. In section 266 of the said Code, after the word "includes" the following words shall be inserted, namely —"the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind and"

Amendment of section 274, Code of Criminal Procedure 1898

13. In sub-section (*2*) of section 274 of the said Code, for the word three" the word "five" shall be substituted, and to the same sub section the following proviso shall be added, namely —

"Provided that, where any accused person is charged with an offence punishable with death, the jury shall consist of not less than seven persons and, if practicable, of nine persons "

Substitution of new section for section 275, Code of Criminal Procedure 1898

14. For section 275 of the said Code the following section shall be substituted, namely.—

Jury for trial of European and Indian British subjects and others

"275 (*1*) In a trial by jury before the High Court or Court of Session of a person who has been found under the provisions of this Code to be an European or Indian British subject, a majority of the jury shall, if such person before the first juror is called and accepted so requires, consist, in the case of an European British subject, of persons who are Europeans or Americans and, in the case of an Indian British subject, of Indians

(*2*) In any such trial by jury of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, a majority of the jury shall, if practicable and if such European or American before the first juror is called and accepted so requires, consist of persons who are Europeans or Americans "

15. In section 284 of the said Code, for the words 'two or more shall be chosen, as the Judge thinks fit,' the words "not less than three and, if practicable, four shall be chosen" shall be substituted. Amendment of section 284, Code of Criminal Procedure, 1898

16. After section 284 of the said Code the following section shall be inserted namely :— Insertion of new section 284A in the Code of Criminal Procedure 1898

'284A. (1) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European or Indian British subject, if the European or Indian British subject accused, or, where there are several European British subjects accused, or several Indian British subjects accused, all of them jointly, before the first assessor is chosen so require, all the assessors shall, in the case of European British subjects, be persons who are Europeans or Americans or, in the case of Indian British subjects, be Indians. Assessors for trial of European and Indian British subjects and others

(2) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, all the assessors shall, if practicable and if such European or American before the first assessor is chosen so requires, be persons who are Europeans or Americans.'

17. After section 285 the following heading and section shall be inserted, namely :— Insertion of new section 285A in the Code of Criminal Procedure, 1898

'DD.—*Joint trials*

285A. In any case in which an European or American is accused jointly with a person not being an European or American, or an Indian British subject is accused jointly with a person not being an Indian and such European, Indian British subject or American is committed for trial before a Court of Session, he and such other person may be tried together, but if he requires to be tried in accordance with the provisions of section 275 or section 284A and is so tried and the other person accused requires to be tried separately, such other person shall be tried separately in accordance with the provisions of this Chapter. Trial of European or Indian British subject or European or American jointly accused with others

allowing the accused person reasonable time within which to adduce evidence in support of his claim, shall, if he is satisfied—

(*a*) that the complainant and the accused persons or any of them are respectively European and Indian British subjects or Indian and European British subjects, or

(*b*) that, in view of the connection with the case of both an European British subject and an Indian British subject, it is expedient for the ends of justice that the case should be tried under the provisions of this Chapter,

record a finding that the case is a case which ought to be tried under the provisions of this Chapter, or if he is not so satisfied record a finding that it is not such a case

(*2*) Where the Magistrate rejects the claim, the person by whom it was made may appeal to the Sessions Judge, and the decision of the Sessions Judge thereon shall be final and shall not be questioned in any Court in appeal or revision

(*3*) Where the Magistrate rejects the claim, he shall stay the proceedings until the expiration of the period allowed for the presentation of the appeal or, if an appeal is presented, until it has been decided

Definition of complainant

444 For the purposes of section 443, "complainant" means any person making a complaint or, in relation to any case of which cognizance is taken under clause (*b*) of section 190, sub section (*1*), any person who has given information relating to the commission of the offence within the meaning of section 154

Provided that a Public Prosecutor, a public servant, a member, officer or servant of any local authority, a railway servant as defined in section 3 of the Indian Railways Act, 1890, or an officer or servant of any company, association or other body to which the Local Government may, by general or special order published in the local official Gazette, declare the provisions of this section to apply, shall not, by reason only of the fact that he has made a complaint of, or given information of, an offence in his capacity as such Public Prosecutor, public servant, railway servant, member, officer or servant, be deemed to be a complainant within the meaning of this section, nor shall a police officer be so deemed by reason only of the fact that a report under section 173 relating to a case has been made by or through him

IX of 1890

445. (1) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a summons-case, the Magistrate trying the same shall direct that the case be referred to a Bench of two Magistrates and shall send a copy of such order to the District Magistrate who shall forthwith provide for the constitution of a Bench of two Magistrates of the first class, of whom one shall be an European and the other an Indian, for the trial of the case. Procedure in summons cases

(2) Where the Magistrates constituting the Bench by which a case is tried under this section differ in opinion, the case, together with their opinions thereon, shall be laid before the Sessions Judge, who may examine any party or recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence, and shall thereafter pass such judgment, sentence or order in the case as he thinks fit and as is according to law.

(3) Any person convicted by a Bench under this section shall have the same right of appeal as if he had been convicted by a Magistrate of the first class, and any person convicted by a Sessions Judge under sub-section (2) shall have the same right of appeal to the High Court as if he had been convicted by the Sessions Judge at a trial held by the Sessions Judge under this Code.

(4) In any case in which it is impracticable to constitute a Bench in accordance with the provisions of sub-section (1) in any district, the District Magistrate shall transfer the case for trial by a like Bench to such other district as the High Court may, by general or special order, direct.

(5) Notwithstanding anything contained in this section, the Local Government may, by notification in the local official Gazette, direct that all summons-cases tried under the provisions of this Chapter in any district specified in the notification shall be tried as if they were warrant-cases in accordance with the provisions hereinafter in this Chapter laid down for the trial of warrant cases.

446. (1) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a warrant case, the Magistrate inquiring into or trying the case shall, if he does not discharge the accused under section 209 or section 253, as the case may be, commit the case for trial to the Court of Session, whether the case is or is not exclusively triable by that Court. Procedure in warrant cases

as is referred to in proviso (*a*) to section 41 of the Army Act the Advocate General shall, if so instructed by the competent authority, apply to the High Court for the committal or transfer of the case to that High Court and thereupon the High Court shall order that the case be committed for trial to or be transferred to itself and shall thereafter proceed to try the case by jury

(2) The Governor General in Council may by notification in the Gazette of India, declare any officer to be the competent authority for the purpose of issuing instructions under sub section (*1*) in regard to any class of cases specified in the notification "

Insertion of new Chapter XLIVA in the Code of Criminal Procedure 1898

33 After Chapter XLIV of the said Code, the following Chapter shall be inserted, namely —

"CHAPTER XLIVA

SUPPLEMENTARY PROVISIONS RELATING TO EUROPEAN AND INDIAN BRITISH SUBJECTS AND OTHERS

Procedure of claim of a person to be dealt with as European or Indian British subject, or as European or American

528A (1) Where, in any case to which the provisions of Chapter XXXIII do not apply, any person claims to be dealt with as an European or Indian British subject, or where any person claims to be dealt with as an European (other than an European British subject) or an American, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purpose of the inquiry or trial and such Magistrate shall inquire into the truth of such statement and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall deal with him accordingly

(2) When any such claim is rejected by the Magistrate and the person by whom it was made is committed by the Magistrate for trial before the Court of Session, and such person repeats the claim before such Court, such Court shall after such further inquiry, if any as it thinks fit, decide the claim and shall deal with such person accordingly

(3) When any Court before which any person is tried rejects any such claim as aforesaid the decision shall form a ground of appeal from the sentence or order passed in such trial

Failure to plead status a waiver

528B If in any such case an European or Indian British subject or an European (other than an European British subject) or an American

does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before and rejected by the committing Magistrate, it is not repeated before the Court to which such person is committed, he shall be held to have relinquished his right to be dealt with as an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall not assert it in any subsequent stage of the case.

528C. Where a person, not being an European British subject, is dealt with as an European British subject or, not being an Indian British subject, is dealt with as an Indian British subject or, not being an European (other than an European British subject) or American, is dealt with as an European or American, and such person does not object, the inquiry, commitment, trial, or sentence, as the case may be, shall not, by reason of such dealing, be invalid. Trial of person as belonging to class to which he does not belong.

528D. (1) Unless there is something repugnant in the context, all enactments made by the Governor General in Council or the Indian Legislature which confer on Magistrates or on the Court of Session jurisdiction *over offences shall be deemed to apply to European British subjects,* although such persons are not expressly referred to therein. Application of Acts conferring jurisdiction on Magistrates or Courts of Session.

(2) Nothing in this section shall be deemed to authorise any Court to exceed the limits prescribed by this Code as to the amount of punishment which it may inflict on an European British subject or to confer jurisdiction on any Magistrate of the second or third class for the trial of such subjects."

34. For section 534 of the said Code the following section shall be substituted, namely:— Amendment of section 534, Code of Criminal Procedure, 1898.

"534. An omission to inform under section 447 any person of his rights under Chapter XXXIII shall not affect the validity of any proceeding." Omission to give information under section 447.

1874 **35.** In section 4 of the European Vagrancy Act, 1874 (hereinafter referred to as the said Act), for the words "the nearest Justice of the Peace exercising the powers of a Magistrate of the first class under the Code of Criminal Procedure" the words "the nearest Magistrate of the first class" shall be substituted. Amendment of section 4, Act IX of 1874.

36. In sections 5, 8 and 29 of the said Act, for the word "Justice" the words "Magistrate of the first class" shall be substituted. Amendment of sections 5, 8 and 29, Act IX of 1874.

Amendment of sections 7, 9, 10 and 24, Act IX of 1874

37. In sections 7, 9, 10 and 24 of the said Act, for the words "Justice of the Peace exercising powers as aforesaid" the words "Magistrate of the first class" shall be substituted, and, in section 10 of the said Act, the words 'Justice of the Peace," where they first occur, shall be omitted

Amendment of section 19, Act IX of 1874

38. In section 19 of the said Act, for the words "Justice of the Peace," wherever they occur, the words "Magistrate of the first class" shall be substituted

Amendment of section 30, Act IX of 1874

39. In section 30 of the said Act, the words "beyond the limits of the said towns", the words and brackets "(other than those contained in Chapter XXXVIII of the same Code)", and the words "If from any cause he is committed or held to bail by a Justice of the Peace to take his trial before a High Court, he shall not be at liberty to object to the jurisdiction of such Justice of the Peace or High Court on the ground of anything contained in the former part of this section' shall be omitted

Amendment of section 35, Act IX of 1874

40 In section 35 of the said Act, the words "Justices of the Peace exercising the powers of a Magistrate of the first class" shall be omitted

Amendment of the First Schedule to Act IX of 1874

41. In the First Schedule to the said Act, for the words "Justice of the Peace for exercising the powers of a Magistrate of the class" the words "Magistrate of the first class" shall be substituted

Amendment of First Schedule to Act IX of 1908

42 In the First Schedule to the Indian Limitation Act, 1908, the following item shall be inserted after item 150, namely — IX of 1908.

"150A —Under the Code of Criminal Procedure 1898, from a finding rejecting a claim under section 443 of that Code	Seven days	The date of the finding"

Amendment of section 3, Central Provinces Courts Act 1917

43. In section 3 of the [1]Central Provinces Courts Act, 1917, the words "except in reference to proceedings against European British subjects and persons jointly charged with the European British subjects" shall be omitted C P Act I of 1917.

ACT No XIII of 1923 [2]

[16th March, 1923]

An Act further to amend the Married Women's Property Act, 1874.

WHEREAS it is expedient further to amend the Married Women's Property Act, 1874, It is hereby enacted as follows — III of 1874

Short title

1. This Act may be called the Married Women's Property (Amendment) Act, 1923

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[1] Central Provinces Code

[2] For Statement of Objects and Reasons see Gazette of India, 1922, Pt. V, p 179, and for Report of Select Committee, see ibid, 1923, Pt V, p 75

of 1874. 2 Section 6 of the Married Women's Property Act, 1874, shall be renumbered as sub section (*1*) of section 6, and to the said section the following sub section shall be added, namely — Amendment of section 6 Act III of 1874

(*2*) Notwithstanding anything contained in section 2 the provisions of sub section (*1*) shall apply in the case of any policy of insurance such as is referred to therein which is effected by any Hindu, Muhammadan, Sikh or Jain, in Madras after the thirty first day of December, 1913, or in any other part of British India after the first day of April 1923

Provided that nothing herein contained shall affect any right or liability which has accrued or been incurred under any decree of a competent Court passed before the first day of April, 1923

ACT No XIV OF 1923 [1]

[*16th March 1923*]

An Act to provide for the creation of a fund for the improvement and development of the growing, marketing and manufacture of cotton in India

WHEREAS it is expedient to provide for the creation of a fund to be expended by a Committee specially constituted in this behalf for the improvement and development of the growing marketing and manufacture of cotton in India It is hereby enacted as follows —

1 (*1*) This Act may be called the Indian Cotton Cess Act 1923 Short title and extent

(*2*) It extends to the whole of British India (including British Baluchistan and the Sonthal Parganas) except Aden

2 In this Act unless there is anything repugnant in the subject or context — Definitions

(*a*) Collector means in reference to cotton consumed in a mill in British India the Collector of the district in which the mill is situated [2][or any other officer appointed by the Local Government to perform the duties of a Collector under this Act],

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[1] For Statement of Objects and Reasons *see* Gazette of India 1923 Pt V p 59 and for Report of Joint Committee *see ibid* 1923 Pt V p 97

[2] These words were added by s 2 of the Indian Cotton Cess (Amendment) Act 1924 (1 of 1924)

(b) "the Committee" means the Indian Central Cotton Committee constituted under this Act,

(c) "cotton" means raw cotton, whether baled or loose, which has been ginned,

(d) "Customs collector" and "customs port" mean respectively a Customs collector and a customs port as defined in section 3 of the Sea Customs Act, 1878, VIII of 1878

(e) "mill" means any place which is a factory as defined in section 2 of the Indian Factories Act, 1911 and in which cotton is XII of 1911. converted into yarn or thread either for sale as such or for conversion into cotton goods as defined in section 3 of the [1]Cotton Duties Act, 1896, and II of 1896.

(f) "prescribed" means prescribed by rules made under this Act

Imposition of cotton cess

[2][3 (1)] There shall be levied and collected on all cotton produced in India and either exported from any customs port to any port outside British India or consumed in any mill in British India a cess at the rate of two annas per standard bale of four hundred pounds avoirdupois, or, in the case of unbaled cotton of six pies per hundred pounds avoirdupois

Provided that the cess shall be levied and collected at double the above rates until the expiry of three years from the commencement of this Act

[3][(2) The Governor General in Council may, by notification[4] in the Gazette of India, direct that the cess referred to in sub section (1) shall be levied and collected on all cotton produced in India and exported by land from British India to any foreign territory outside India which may be specified in the notification]

XIV of 1923

Amendment of section 4 Act XIV of 1923

2 In section 4 of the Indian Cotton Cess Act, 1923 (hereinafter referred to as the said Act),—

(i) in clause (i), for the words "the Agricultural Adviser to the Government of India," the words "the Vice-Chairman of the Imperial Council of Agricultural Research" shall be substituted, and

(ii) after clause (i) the following clause shall be inserted, namely —

"(ia) the Expert Adviser to the Imperial Council of Agricultural Research in agricultural matters,"

[4] For such Notification see Gen R and O, Vol V, p 318

Burma and nominated respectively by those Local Governments,

(iii) the Director General of Commercial Intelligence,

(iv) nine persons nominated, respectively, by the East India Cotton Association, the Bombay Millowners Association, the Bombay Chamber of Commerce, the Indian Merchants' Chamber, Bombay the Karachi Chamber of Commerce, the Ahmedabad Millowners Association, the Tuticorin Chamber of Commerce the Upper India Chamber of Commerce, and the Empire Cotton Growing Corporation

(v) four persons representing the cotton manufacturing or cotton ginning industry of whom two shall be nominated by the Local Government of the Central Provinces and one by each of the Local Governments of Madras and the Punjab

(vi) one person nominated by the Local Government of Bengal,

(vii) one person having knowledge of co operative banking nominated by the Governor General in Council

(viii) ten persons representing the cotton growing industry in Madras, Bombay, the United Provinces, the Punjab and the Central Provinces and Berar, of whom two shall be nominated by each of the Local Governments of those Provinces

(ix) three persons nominated respectively by the Government of His Exalted Highness the Nizam of the Hyderabad State, by the Durbar of the Baroda State and by the Durbar of the Gwalior State,

(x) one person nominated jointly by the Durbars of the Indian States in Rajputana and Central India, and

(xi) such additional persons as the Governor General in Council may, by notification in the Gazette of India, appoint

Provided that if within the period prescribed in this behalf, any authority or other person fails to make any nomination which it or he is entitled to make under this section, the Governor General in Council may himself appoint a member or members as the case may be to fill the vacancy or vacancies

5 (*1*) The Committee so constituted shall be a body corporate by the name of the Indian Central Cotton Committee, having perpetual succession and a common seal with power to acquire and hold property both Incorporation of Committee

moveable and immoveable and to contract, and shall by the said name sue and be sued

(2) ~~The Agricultural Adviser to the Government of India~~ Vice-chairman of the Imp. Council of Agri. Research shall be *ex-officio* President of the Committee

(3) The Secretary of the Committee shall be a person, not being a member of the Committee, appointed by the Governor General in Council

Delivery of monthly returns

6 (*1*) The owner of every mill shall furnish to the Collector, on or before the seventh day of each month, a return stating the total amount of cotton consumed or brought under process in the mill during the preceding month, together with such further information in regard thereto as may be prescribed

Provided that no return shall be required in regard to cotton consumed or brought under process before the commencement of this Act

(*2*) Every such return shall be made in such form and shall be verified in such manner as may be prescribed

Collection of cess by Collector

7 (*1*) On receiving any return made under section 6, the Collector shall assess the cotton cess payable in respect of the period to which the return relates, and if the amount has not already been paid shall cause a notice to be served upon the owner of the mill requiring him to make payment of the amount assessed within ten days of the service of the notice

(*2*) If the owner of any mill fails to furnish in due time the return referred to in section 6 or furnishes a return which the Collector has reason to believe is incorrect or defective, the Collector shall assess the amount payable by him in such manner, if any, as may be prescribed, and the provisions of sub section (*1*) shall thereupon apply as if such assessment had been made on the basis of a return furnished by the owner

Provided that, in the case of a return which he has reason to believe is incorrect or defective, the Collector shall not assess the cess at an amount higher than that at which it is assessable on the basis of the return without giving to the owner a reasonable opportunity of proving the correctness and completeness of the return

(*3*) A notice under sub section (*1*) may be served on the owner of a mill either by post or by delivering it or tendering it to the owner or his agent at the mill

[1][8. (1)] In respect of cotton exported by sea, the cess shall be assessed and levied by the Customs-collector at the customs-port of export and, subject to the provisions of this Act and of any rules made thereunder, shall, for all or any of the purposes of the Sea Customs Act, 1878, be deemed to be a duty of customs. *Collection of cess on exported cotton.* *VIII of 1878.*

[2][(2) In respect of cotton exported by land on which the cess is leviable—

(a) where the cotton is exported to any territory which is foreign territory as defined in the Land Customs Act, 1924, the cess shall be assessed by such authorities and in such manner as may be prescribed and shall, subject to the provisions of this Act and of any rules made thereunder, for all or any of the purposes of the Land Customs Act, 1924, be deemed to be a duty of land customs leviable under section 5 of the Indian Tariff Act, 1894, and *XIX of 1924.* *XIX of 1924.* *VIII of 1894.*

(b) in any other case, the cess shall be assessed and levied by such authorities and in such manner as may be prescribed.

(3) The Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, may make rules[3] providing, on such conditions as may be specified in the rules for— *IV of 1924.*

(a) the refund of the cess levied where cotton is exported by land and subsequently imported into India, and

(b) the export by land, without payment of the cess, of cotton which is subsequently to be imported into India.]

9. (1) An assessment made in accordance with the provisions of section 7 or section 8 shall not be questioned in any Court. *Finality of assessment and recovery of unpaid cess.*

(2) Any owner of a mill who is aggrieved by an assessment made under section 7 may, within three months of service of the notice referred to in sub-section (1) of that section, apply to the Local Government for the cancellation or modification of the assessment and, on such application, the Local Government may cancel or modify the assessment and order the refund to such owner of the whole or part, as the case may be, of any amount paid thereunder.

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1 This section was re-numbered by s. 4 of the Indian Cotton Cess (Amendment) Act, 1924 (1 of 1924).
2 These sub-sections were substituted by s. 2 of the Indian Cotton Cess (Amendment) Act, 1925 (18 of 1925).
3 For such rules, see Gen. R. and O., Vol. V, p. 318.

(3) Any sum recoverable under section 7 may be recovered as an arrear of land revenue

Power to inspect mills and take copies of records and accounts.

10. (1) The Collector or any officer empowered by general or special order of the Local Government in this behalf shall have free access at all reasonable times during working hours to any mill or to any part of any mill

(2) The Collector or any such officer may at any time, with or without notice to the owner, examine the working records, sale records and accounts of any mill and take copies of or extracts from all or any of the said records or accounts for the purpose of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder

(3) Where any officer other than the Collector proposes to examine under sub section (2) any record or account containing the description for formulæ of any trade process, the owner of the mill may give to the said officer, for transmission to the Collector, a written notice of objection and the officer shall thereupon seal up the record or account pending the orders of the Collector

Information acquired to be confidential.

11 (1) All such copies and extracts and all information acquired by a Collector or any other officer from an inspection of any mill or warehouse or from any return submitted under this Act shall be treated as confidential

(2) If the Collector or any such officer discloses to any person other than a superior officer any such information as aforesaid without the previous sanction of the Local Government, he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine

Provided that nothing in this section shall apply to the disclosure of any such information for the purposes of a prosecution in respect of the making of a false return under this Act

Application of proceeds of cess.

12. (1) On the last day of each month, or as soon thereafter as may be convenient, the proceeds of the cess recovered during that month shall, after deduction of the expenses if any, of collection and recovery, be paid to the Committee

(2) Subject to such conditions as may be prescribed, the said proceeds and any other monies received by the Committee shall be applied

to meeting the expenses of the Committee and the cost of such measures as it may, with the previous approval of the Governor General in Council, decide to undertake for promoting agricultural and technological research in the interests of the cotton industry in India

13. No act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee or the Standing Finance Sub Committee, if any — **Validation.**

14. The Governor General in Council may by notification in the Gazette of India declare that with effect from such date as may be specified in the notification the Committee shall be dissolved and on the making of such declaration all funds and other property vested in the Committee shall vest in His Majesty and this Act shall be deemed to have been repealed — **Dissolution of Committee**

15. (*1*) The Governor General in Council may make rules[1] for the purpose of carrying into effect all or any of the provisions of this Act — **Power of the Governor General in Council to make rules**

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely —

(*a*) for prescribing the time within which nominations shall be made under section 4 whether in the first instance or on the occurrence of vacancies

(*b*) for prescribing the term of office of the members of the Committee,

(*c*) for prescribing the circumstances in which and the authority by which any member may be removed,

(*d*) for the holding of a minimum number of meetings of the Committee during any year

(*e*) for the maintenance by the Committee of a record of all business transacted and the submission of copies of such records to the Governor General in Council

(*f*) for the definition of the powers of the Committee and of the Secretary to enter into contracts which shall be binding on the Committee and the manner in which such contracts shall be executed,

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[1] For such rules see Gen R and O Vol V, p 319

(e) for determining the times at which, and the circumstances in which, payments may be made out of the provident fund and the conditions on which such payments shall relieve the fund from further liability,

(f) for determining the contribution, if any, payable from the funds of the Committee to the provident fund,

(g) for regulating generally all matters incidental to the provident fund and the investment thereof,

(h) for defining the powers and duties of the Secretary of the Committee

Publication of rules.

17. All rules made under section 15 or section 16 shall be published in the Gazette of India and, on such publication, shall have effect as if enacted in this Act

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ACT No XV of 1923[1]

[*16th March, 1923*]

An Act to amend the Indian Income-tax Act, 1922.

WHEREAS it is expedient to amend the Indian Income tax Act, 1922, XI of 1922 It is hereby enacted as follows —

Short title

1. This Act may be called the Indian Income tax (Amendment) Act, 1923

Amendment of section 7, Act XI of 1922.

2. To sub-section (1) of section 7 of the Indian Income tax Act, 1922 (hereinafter referred to as the said Act), the following *Explanation* XI of 1922. shall be added, namely —

[*Vide* p 92, *supra*]

Amendment of section 68 Act XI of 1922

2[2] (1) In section 68 of the said Act, in the second proviso,—

(a) for the words and figures " to all assessments made under that Act in the year ending on the thirty-first day of March, 1922," the following shall be substituted, namely —

[Not reproduced here]

and

(b) for the words and figures " section 19 of the said Act " the words " that section " shall be substituted

(2) The amendments made in the said Act by sub section (1) shall have effect as if they had been made on the first day of April, 1922

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[1] For Statement of Objects and Reasons, see Gazette of India 1923, Pt V, p 114

[2] This section is virtually repealed as s 68 of the Indian Income tax Act, 1922 (11 of 1922), has been repealed by Act 12 of 1927

ACT No XVI of 1923[1]

[*16th March, 1923*]

An Act further to amend the Government Savings Banks Act, 1873.

V of 1873. WHEREAS it is expedient further to amend the Government Savings Banks Act, 1873; It is hereby enacted as follows —

1. This Act may be called the Government Savings Banks (Amendment) Act, 1923. Short title.

V of 1873. 2. In section 3 of the Government Savings Banks Act, 1873 (hereinafter referred to as the said Act), for the definition of "Secretary" the following shall be substituted, namely — Amendment of section 3, Act V of 1873.

"'Secretary' means, in the case of a Post Office Savings Bank, the Postmaster-General appointed for the area in which the Savings Bank is situate"

3. For section 4 of the said Act the following section shall be substituted, namely — Substitution of new section for section 4, Act V of 1873.

"4 If a depositor dies and probate of his will or letters of administration of his estate or a certificate granted under the Succession Certificate Act, 1889, is not within three months of the death of the depositor produced to the Secretary of the Government Savings Bank in which the deposit is, then— Payment on death of depositor. VII of 1889.

(a) if the deposit does not exceed three thousand rupees, the Secretary may pay the same to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, or

(b) if the deposit does not exceed one hundred rupees, any officer employed in the management of a Government Savings Bank who is empowered in this behalf by a general or special order of the Governor General in Council, may, subject to any general or special orders of the Secretary in this behalf, pay the deposit to any person appearing to him to be entitled to receive it or to administer the estate"

4 In sections 6 and 7 of the said Act, after the words "Secretary of any such Bank" the words "or any officer empowered under section 4" shall be inserted. Amendment of sections 6 and 7 Act V of 1873.

[1] For Statement of Objects and Reasons see Gazette of India, 1923, Pt V, p 108

ACT No XVII of 1923[1]

[16th March, 1923]

An Act to amend section 29 of the Prisoners Act, 1900.

WHEREAS it is expedient to amend section 29 of the Prisoners Act, 1900, It is hereby enacted as follows — III of 1900.

Short title

1. This Act may be called the Prisoners (Amendment) Act, 1923

2. In section 29 of the Prisoners Act, 1900,— III of 1900.

(a) to sub section (1) after the words "British India" the words "or to any prison in Berar" shall be added; and

(b) to sub section (2) the following words shall be added, namely —

"or, in the case of a prisoner so confined in a prison in the Central Provinces, for his removal to any other prison in the Province or to any prison in Berar"

ACT No XVIII of 1923[2]

[2nd April, 1923]

An Act further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, and the Court fees Act, 1870; It is hereby enacted as follows — V of 1898 VII of 1870

Short title

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1923

Amendment of section 10, Code of Criminal Procedure, 1898

2. In section 10 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code),— V of 1898

(i) in sub-section (2), the words "for a period not exceeding six months" shall be omitted, and after the words "under this Code" the words "or under any other law for the time being in force," shall be inserted; and

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1 For Statement of Objects and Reasons, see Gazette of India, 1923, Pt V, p 106

2 For Statement of Objects and Reasons, see Gazette of India 1921, Pt V, p 35, and for Report of Joint Committee, see ibid, 1922, Pt. V, p 256

(ii) after sub-section (2) the following sub-section shall be added, namely :—

"(3) For the purposes of sections 192, sub-section (1), 407, sub-section (2), and 528, sub-sections (2) and (3), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate."

3. After sub-section (2) of section 18 of the said Code the following sub-sections shall be added, namely :— Amendment of section 18, Code of Criminal Procedure, 1898.

"(3) A Presidency Magistrate may be appointed under this section for such term as the Local Government may, by general or special order, direct.

(4) The Local Government may appoint any person to be an Additional Chief Presidency Magistrate, and such Additional Chief Presidency Magistrate shall have all or any of the powers of a Chief Presidency Magistrate under this Code or under any other law for the time being in force, as the Local Government may direct."

4. In sub-section (2) of section 21 of the said Code, after the words "Presidency Magistrates" the words "including Additional Chief Presidency Magistrates" shall be inserted. Amendment of section 21, Code of Criminal Procedure, 1898

5. In sub section (2) of section 29 of the said Code, after the words "High Court or the words "subject as aforesaid" shall be inserted. Amendment of section 29, Code of Criminal Procedure, 1898

6. Before section 30 of the said Code the following section shall be inserted, namely :— Insertion of new section 29B in the Code of Criminal Procedure, 1898

"29B Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the Local Government to exercise the powers conferred by section 8, sub section (1), of the Reformatory Schools Act, 1897, or, in any area in which the said Act has been wholly or in part repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby." Jurisdiction in the case of juveniles.

VIII of 1897

Amendment of section 35, Code of Criminal Procedure, 1898

7. (1) In section 35 of the said Code,—

(i) in sub section (1), for the words "When a person is convicted at one trial of two or more distinct offences the Court may," the following shall be substituted, namely —

"When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Indian Penal Code , and XLV of 1860

(ii) in sub section (3) for the word "aggregate" the words "the aggregate of consecutive" shall be substituted

(2) The *Explanation* and *Illustration* to this section are hereby repealed

Amendment of section 40 Code of Criminal Procedure, 1898

8 In section 40 of the said Code, for the word "transferred," in both places where it occurs the word "appointed" shall be substituted and the words continue to" shall be omitted, and for the words to which " the words in which" shall be substituted

Amendment of section 45, Code of Criminal Procedure, 1898

9 In section 45 of the said Code,—

(i) in sub section (1),—

(a) after the word "occupier", where it occurs for the second time, the words in charge of the management of that land" shall be inserted, and for the word 'obtain the word "possess" shall be substituted

(b) to clause (d) after the words "suspicious circumstances," the following words shall be added, namely —

or the discovery in or near such village of any corpse or part of a corpse in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non bailable offence has been committed in respect of such person," and

(c) in clause (e), after the word "namely," the figures "231, 232, 233, 234, 235, 236, 237, 238," shall be inserted, and for the word and figures and 460" the figures, letters and word "460, 489A, 489B, 489C and 489D shall be substituted, and

(ii) in sub section (3), after the words "District Magistrate," the words or Sub divisional Magistrate" shall be inserted, after the word persons the words "with his or their consent" shall be inserted, and for the words to be village headman for the purposes of this

section in any village for which there is no such headman appointed under any other law " the following shall be substituted, namely —

" to perform the duties of a village headman under this section whether a village headman has or has not been appointed for that village under any other law

10 In sub section (1) of section 54 of the said Code, in clause *fourthly*, for the word or the word and shall be substituted, and to the same sub section the following clause shall be added namely — Amendment of section 54 Code of Criminal Procedure, 1898

ninthly any person for whose arrest a requisition has been received from another police officer provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition '

11 In sub section (1) of section 56 of the said Code, after the words " police station the words or any police officer making an investigation under Chapter XIV shall be inserted and to the same sub section the following shall be added namely — Amendment of section 56 Code of Criminal Procedure 1898

The officer so required shall before making the arrest notify to the person to be arrested the substance of the order and if so required by such person shall show him the order

12 For sub section (1) of section 59 of the said Code the following sub section shall be substituted namely — Amendment of section 59 Code of Criminal Procedure 1898

(1) Any private person may arrest any person who in his view commits a non bailable and cognizable offence or any proclaimed offender and without unnecessary delay shall make over any person so arrested to a police officer or in the absence of a police officer take such person or cause him to be taken in custody to the nearest police station

13 (1) After sub section (6) of section 88 of the said Code the following sub sections shall be inserted namely — Amendment of section 88 Code of Criminal Procedure 1898

(6A) If any claim is preferred to or objection made to the attachment of any property attached under this section within six months from the date of such attachment by any person other than the proclaimed person on the ground that the claimant or objector has an interest in such property and that such interest is not liable to attachment under this section the claim or objection shall be inquired into and may be allowed or disallowed in whole or in part

Provided that any claim preferred or objection made within the period allowed by this sub section may, in the event of the death of the claimant or objector, be continued by his legal representative

(*6B*) Claims or objections under sub section (*6A*) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of property attached under an order endorsed by a District Magistrate or Chief Presidency Magistrate in accordance with the provisions of sub section (*2*), in the Court of such Magistrate

(*6C*) Every such claim or objection shall be inquired into by the Court in which it is preferred or made

Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be, subordinate to him

(*6D*) Any person whose claim or objection has been disallowed in whole or in part by an order under sub section (*6A*) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute, but subject to the result of such suit, if any, the order shall be conclusive

(*6E*) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment

(*2*) In sub section (*7*) of the same section after the words " date of the attachment the words and until any claim preferred or objection made under sub section (*6A*) has been disposed of under that sub-section shall be inserted

Amendment of section 103 Code of Criminal Procedure 1898

14 (*1*) To sub section (*1*) of section 103 of the said Code, after the words witness the search the following shall be added, namely —

' and may issue an order in writing to them or any of them so to do '

(*2*) After sub section (*4*) of the same section the following sub section shall be added, namely —

(*5*) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code " XLV of 1860.

15. In section 106 of the said Code,— Amendment of section 106, Code of Criminal Procedure, 1898

(i) in sub-section *(1)*, for the word "noting" the following words shall be substituted, namely —"any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence punishable under section 143, section 149, section 153A or section 154 thereof, or of" and the words "or of assembling armed men or taking other unlawful measures with the evident intention of committing the same," shall be omitted; and XLV of 1860.

(ii) in sub section *(3)*, after the words "Appellate Court" the words "including a Court hearing appeals under section 407" shall be inserted

16 *(1)* In sub-section *(1)* of section 107 of the said Code, after the words "the Magistrate," where they first occur, the words "if in his opinion there is sufficient ground for proceeding" shall be inserted. Amendment of section 107, Code of Criminal Procedure, 1898

(2) In sub section *(4)* of the same section, for the words "this section" the word, figure and brackets "sub section *(3)*" shall be substituted, and for the words "until the completion of the inquiry hereinafter prescribed" the words "pending further action by himself under this Chapter" shall be substituted.

17. In section 108 of the said Code, after the words "in writing" the words "or in any other manner intentionally" shall be inserted, after the words "such Magistrate" the words "if in his opinion there is sufficient ground for proceeding" shall be inserted, for the words "or printed or published" the words "and edited, printed and published" shall be substituted, and after the figures "1867," the words "with reference to any matter contained in such publication" shall be inserted Amendment of section 108 Code of Criminal Procedure, 1898

18 In section 110 of the said Code,— Amendment of section 110 Code of Criminal Procedure, 1898

(i) in clause *(a)*, the word "or" where it first occurs, shall be omitted, and after the word "thief" the words "or forger," shall be inserted, and

(ii) for clause *(d)* the following clause shall be substituted, namely —

"*(d)* habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code, or under section 489A, section 489B, section 489C or section 489D of that Code, or" XLV of 1860

Amendment of section 117, Code of Criminal Procedure 1898

19 In section 117 of the said Code,—

(i) after sub section (2) the following sub section shall be inserted, namely —

" (3) Pending the completion of the inquiry, under sub-section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 112 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded

Provided that—

(a) no person against whom proceedings are not being taken under section 108, section 109, or section 110, shall be directed to execute a bond for maintaining good behaviour, and

(b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 112",

(ii) sub section (3) shall be re-numbered (4), and after the words " habitual offender " in the said sub section, the words " or is so desperate and dangerous as to render his being at large without security hazardous to the community " shall be inserted, and

(iii) sub section (4) shall be re-numbered (5)

Substitution of new section for section 122 Code of Criminal Procedure, 1898

20. For section 122 of the said Code the following section shall be substituted, namely —

Power to reject sureties

" 122 (1) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him

(2) Such Magistrate shall, before holding the inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall, in making the inquiry, record the substance of the evidence adduced before him

(3) If the Magistrate is satisfied after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (1) and the report of such Magistrate (if any) that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him "

21 (1) After sub section (3) of section 123 of the said Code the following sub sections shall be inserted, namely — Amendment of section 123, Code of Criminal Procedure, 1898

(3A) If security has been required in the course of the same proceedings from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge or the High Court under sub section (2) such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub sections (2) and (3) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned shall not exceed the period for which he was ordered to give security

(3B) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub section (2) or sub section (3A) to an Additional Sessions Judge or Assistant Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings "

(2) In sub section (6) of the same section, for the word "may" the following words shall be substituted, namely —

"shall, where the proceedings have been taken under section 108 or section 109, be simple and, where the proceedings have been taken under section 110"

Amendment of section 124, Code of Criminal Procedure, 1898

22. In section 124 of the said Code,—

(i) in sub section (1), the words "whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate," shall be omitted;

(ii) for sub section (3) the following sub-section shall be substituted, namely —

"(3) An order under sub section (1) may direct the discharge of such person either without conditions or upon any conditions which such person accepts

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired", and

(iii) after sub section (3) the following sub sections shall be inserted, namely —

"(4) The Local Government may prescribe the conditions upon which a conditional discharge may be made

(5) If any condition upon which any such person has been discharged is, in the opinion of the District Magistrate or Chief Presidency Magistrate by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same

(6) When a conditional order of discharge has been cancelled under sub section (5), such person may be arrested by any police officer without warrant, and shall thereupon be produced before the District Magistrate or Chief Presidency Magistrate

Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge, and the date on which, except for such conditional discharge, he would have been entitled to release), the District Magistrate or Chief Presidency Magistrate may remand such person to prison to undergo such unexpired portion

A person remanded to prison under this sub section shall, subject to the provisions of section 122 be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor '

23 Sub section (3) of section 126 of the said Code shall be re numbered section 126A, and in that section, as re numbered, for the words "When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond the following shall be substituted, namely — **Amendment of section 126 Code of Criminal Procedure, 1898**

'When a person for whose appearance a warrant or summons has been issued under the proviso to sub section (3) of section 122 or under section 126, sub section (2), appears or is brought before him, the Magistrate shall cancel the bond executed by such person "

24 For section 133 of the said Code the following section shall be substituted, namely — **Substitution of new section for section 133, Code of Criminal Procedure, 1898**

133 (1) Whenever a District Magistrate a Sub divisional Magistrate or a Magistrate of the first class considers on receiving a police report or other information and on taking such evidence (if any) as he thinks fit **Conditional order for removal of nuisance**

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public or from any public place, or

that the conduct of any trade or occupation, or the keeping of any goods or merchandise is injurious to the health or physical comfort of the community and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated or

that the construction of any building or the disposal of any substance as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building tent or structure or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that

in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance, or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation, or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed, or

to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure, or

to remove or support such tree, or

to alter the disposal of such substance, or

to fence such tank, well or excavation as the case may be; or

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order,

or, if he objects so to do,

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court

Explanation.—A ' public place ' includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes "

25 In section 135, of the said Code, in clause (*a*), after the words "within the time" the words "and in the manner" shall be inserted

Amendment of section 135 Code of Criminal Procedure, 1898

26 After section 139 of the said Code the following section shall be inserted, namely —

Insertion of new section 139A in the Code of Criminal Procedure, 1898

139A (*1*) Where an order is made under section 133 for the purpose of preventing obstruction nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and, if he does so the Magistrate shall before proceeding under section 137 or section 138, inquire into the matter

Procedure where existence of public right is denied

(*2*) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Civil Court, and if he finds that there is no such evidence, he shall proceed as laid down in section 137 or section 138, as the case may require

(*3*) A person who has, on being questioned by the Magistrate under sub section (*1*), failed to deny the existence of a public right of the nature therein referred to, or who having made such denial, has failed to adduce reliable evidence in support thereof shall not in the subsequent proceedings be permitted to make any such denial, nor shall any question in respect of the existence of any such public right be inquired into by any jury appointed under section 138

27 In section 144 of the said Code —

Amendment of section 144 Code of Criminal Procedure, 1898

(*i*) in sub section (*1*) after the words "or of any other Magistrate" the words and brackets "(not being a Magistrate of the third class)" shall be inserted and after the words "under this section" the words "there is sufficient ground for proceeding under this section and" shall be inserted,

(*ii*) in sub section (*4*), after the word "may" the words "either on his own motion or on the application of any person aggrieved" shall be inserted, and

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such institution

(3) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right

(4) An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction

Amendment of section 148, Code of Criminal Procedure 1898

31. In sub-section (3) of section 148 of the said Code, the words *for witnesses or pleaders fees, or both," shall be omitted, and for* the words All costs so directed to be paid may be recovered as if they were fines the words 'Such costs may include any expenses incurred in respect of witnesses and of pleaders fees, which the Court may consider reasonable shall be substituted

Amendment of section 157, Code of Criminal Procedure, 1898

32 In section 157 of the said Code —

(i) in sub-section (1) after the words one of his subordinate officers the words not being below such rank as the Local Government may, by general or special order, prescribe in this behalf" shall be inserted, and for the words and to take such measures as may be necessary, the words and, if necessary, to take measures' shall be substituted and

(ii) to sub-section (2), after the words that sub-section" the words and, in the case mentioned in clause (b) such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the Local Government, the fact that he will not investigate the case or cause it to be investigated" shall be added

Amendment of section 161, Code of Criminal Procedure 1898

33 In sub-section (1) of section 161 of the said Code, after the word 'Chapter" the words "or any police-officer not below such rank as the Local Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer" shall be inserted

Amendment of section 162, Code of Criminal Procedure 1898

34 For sub-section (1) of section 162 of the said Code the following sub-section shall be substituted, namely —

Statements to police not to be signed,

(1) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if reduced into

writing, be signed by the person making it, nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made

Use of such statements in evidence

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall on the request of the accused refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872. When any part of such statement is so used any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross examination

I of 1872

Provided, further that if the Court is of opinion that any part of any such statement is not relevant to the subject matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused '

35 In section 164 of the said Code —

Amendment of section 164 Code of Criminal Procedure, 1898

(i) in sub section (1) for the words "Every Magistrate not being a police officer may" the words "Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the Local Government may, if he is not a police officer" shall be substituted and

(ii) in sub section (3),—

(a) for the words "No Magistrate" the following words shall be substituted namely —

"A Magistrate shall before recording any such confession, explain to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and no Magistrate",
and

(b) for the words "I believe" the following words shall be substituted, namely —

' I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he

may make may be used as evidence against him and I believe "

Amendment of section 165, Code of Criminal Procedure, 1898

36. In section 165 of the said Code,—

(i) *for sub sections (1) and (2) the following* sub sections *shall be* substituted, namely —

"(*1*) Whenever an officer in charge of a police station or a police-office making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station

(*2*) A police officer proceeding under sub section (*1*) shall, if practicable, conduct the search in person ",

(ii) in sub section (3), after the words " he may " the words " after recording in writing his reasons for so doing " shall be inserted, and for the words specifying the document or thing for which search is to be made and the place to be searched ' the words ' specifying the place to be searched and, so far as possible, the thing for which search is to be made " shall be substituted,

(iii) in sub section (*4*), after the words search warrants " the words and the general provisions as to searches contained in section 102 and section 103 shall be inserted, and

(iv) after sub section (*4*) *the following sub section shall be added*, namely —

(*5*) Copies of any record made under sub section (*1*) or sub section (*3*) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost "

37. (*1*) In sub-section (*1*) of section 166 of the said Code, after the words "An officer in charge of a police station" the words "or a police-officer not being below the rank of sub-inspector making an investigation" shall be inserted. Amendment of section 166, Code of Criminal Procedure 1898

(*2*) After sub-section (*2*) of the same section the following sub-sections shall be added, namely —

"(*3*) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police-station to cause a search to be made under sub-section (*1*) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police-station or a police officer making an investigation under this Chapter to search, or cause to be searched, any place in the limits of another police station, in accordance with the provisions of section 165, as if such place were within the limits of his own station

(*4*) Any officer conducting a search under sub-section (*3*) shall forthwith send notice of the search to the officer in charge of the police-station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence copies of the records referred to in section 165, sub-sections (*1*) and (*3*)

(*5*) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub section (*4*)

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost"

38. In section 167 of the said Code,— Amendment of section 167 Code of Criminal Procedure, 1898

(i) in sub section (*1*),—

(*a*) for the words "it appears that any" the words "any person is arrested and detained in custody and it appears that the" shall be substituted, and the words "under this Chapter" shall be omitted,

(*b*) after the words "officer in charge of the police station" the words "or the police officer making the investigation if he is not below the rank of sub inspector" shall be inserted; and

(c) the words and brackets "(if any)" shall be omitted, and

(ii) to sub section (2), after the words "such jurisdiction", the following proviso shall be added, namely —

"Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Local Government shall authorise detention in the custody of the police"

Amendment of section 169 Code of Criminal Procedure, 1898

39. In section 169 of the said Code, after the words "officer in charge of the police station" the words "or to the police-officer making the investigation" shall be inserted

Amendment of section 173 Code of Criminal Procedure, 1898

40. (1) For sub section (1) of section 173 of the said Code the following sub-section shall be substituted, namely —

"(1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police station shall—

(a) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the Local Government, setting forth the names of the parties the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties, and

(b) communicate in such manner as may be prescribed by the Local Government, the action taken by him to the person, if any by whom the information relating to the commission of the offence was first given"

(2) After sub section (3) of the same section the following sub section shall be inserted namely —

"(4) A copy of any report forwarded under this section shall, on application, be furnished to the accused before the commencement of the inquiry or trial

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost"

Amendment of section 174 Code of Criminal Procedure 1898

41. In sub section (5) of section 174 of the said Code, for the words "or Sub-divisional Magistrate," the words "Sub-divisional Magistrate or Magistrate of the first class," shall be substituted

42. For sub section (3) of section 181 of the said Code the following sub section shall be substituted, namely — Amendment of section 181, Code of Criminal Procedure, 1898

(3) The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen ' Theft

43 For section 185 of the said Code the following section shall be substituted namely — Substitution of new section for section 185 Code of Criminal Procedure, 1898

185 (1) Whenever a question arises as to which of two or more Courts subordinate to the same High Court ought to inquire into or try any offence, it shall be decided by that High Court High Court to decide in case of doubt district where inquiry or trial shall take place

(2) Where two or more Courts not subordinate to the same High Court have taken cognizance of the same offence the High Court, *within the local limits of whose appellate criminal jurisdiction the pro* ceedings were first commenced, may direct the trial of such offender to be held in any Court subordinate to it and if it so decides all other proceedings against such person in respect of such offence shall be discontinued If such High Court upon the matter having been brought to its notice, does not so decide any other High Court within the local limits of whose appellate criminal jurisdiction such proceedings are pending, may give a like direction and upon its so doing all other such proceedings shall be discontinued

44 In the first proviso to section 188 of the said Code after the words Provided that ' the words notwithstanding anything in any of the preceding sections of this Chapter ' shall be inserted Amendment of section 188 Code of Criminal Procedure 1898

45 For clause (b) of sub section (1) of section 190 of the said Code the following clause shall be substituted, namely — Amendment of section 190 Code of Criminal Procedure 1898

(b) upon a report in writing of such facts made by any police officer

46 In sub section (2) of section 193 of the said Code the words in the case of Assistant Sessions Judges shall be omitted Amendment of section 193 Code of Criminal Procedure 1898

Amendment of section 195, Code of Criminal Procedure, 1898.

47. (1) For sub-section (1) of section 195 of the said Code the following sub-section shall be substituted, namely:—

"(1) No Court shall take cognizance—

Prosecution for contempt of lawful authority of public servants.

(a) of any offence punishable under sections 172 to 188 of the Indian Penal Code except on the complaint in writing of the public XLV of 1860. servant concerned, or of some other public servant to whom he is subordinate;

Prosecution for certain offences against public justice.

(b) of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of such Court or of some other Court to which such Court is subordinate; or

Prosecution for certain offences relating to documents given in evidence.

(c) of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate."

(2) In sub-section (2) of the same section, for the word "means" the word "includes" shall be substituted.

(3) Sub-sections (4), (5) and (6) of the same section shall be omitted.

(4) Sub-sections (7) and (8) of the same section shall be re-numbered (3) and (4), respectively, and for sub-section (3), as re-numbered, the following sub-section shall be substituted, namely:—

"(3) For the purposes of this section, a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such Civil Court is situate:

Provided that—

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate; and

(*b*) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed "

(*5*) After sub section (*4*) of the same section, as re numbered, the following sub section shall be inserted, namely —

" (*5*) Where a complaint has been made under sub section (*1*), clause (*a*), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and if it does so it shall forward a copy of such order to the Court and, upon receipt thereof by the Court no further proceedings shall be taken on the complaint

Amendment of section 196A Code of Criminal Procedure 1898

48 In the proviso to section 196A of the said Code, for the figure and brackets ' (*3*) ' the figure and brackets (*4*) " shall be substituted

Insertion of new section 196B in the Code of Criminal Procedure 1898

49 After section 196A of the said Code the following section shall be inserted, namely —

Preliminary inquiry in certain cases

196B In the case of any offence in respect of which the provisions of section 196 or section 196A apply a District Magistrate or Chief Presidency Magistrate may notwithstanding anything contained in those sections or in any other part of this Code order a preliminary investigation by a police officer not being below the rank of Inspector, in which case such police officer shall have the powers referred to in section 155, sub section (*3*)

Amendment of section 197 Code of Criminal Procedure 1898

50 In section 197 of the Code,—

(i) for sub section (*1*) the following sub section shall be substituted, namely —

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(*1*) When any person who is a Judge within the meaning of section 19 of the Indian Penal Code or when any Magistrate or when any public servant who is not removable from his office save by or with the sanction of a Local Government or some higher authority is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty no Court shall take cognizance of such offence except with the previous sanction of the Local Government and

(ii) in sub-section (2), after the word "Judge" the word "Magistrate" shall be inserted

Amendment of section 198, Code of Criminal Procedure 1898

51. To section 198 of the said Code the following proviso shall be added namely —

Provided that, where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf"

Amendment of section 199, Code of Criminal Procedure 1898.

52. In section 199 of the said Code, after the word "absence" the words "made with the leave of the Court" shall be inserted, and to the same section the following proviso shall be added, namely .—

Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf."

Insertion of new section 199A in the Code of Criminal Procedure 1898.

53. In Chapter XV of the said Code, after section 199 the following section shall be inserted, namely —

Objection by lawful guardian to complaint by person other than person aggrieved

"199A When in any case falling under section 198 or section 199, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application give him a reasonable opportunity of objecting to the granting thereof

Amendment of section 200, Code of Criminal Procedure 1898.

54. In section 200 of the said Code, the words and figures "Subject to the provisions of section 476" shall be omitted, and after proviso (a) the following proviso shall be inserted, namely —

(aa) when the complaint is made in writing, nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties

55. In section 202 of the said Code,— Amendment of section 202 Code of Criminal Procedure, 1898

(i) for sub sections (1) and (2) the following sub sections shall be substituted, namely —

"(1) Any Magistrate on receipt of a complaint of an offence of which he is authorised to take cognizance, or which has been transferred to him under section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or, if he is a Magistrate other than a Magistrate of the third class direct an inquiry or investigation to be made by any Magistrate subordinate to him or by a police officer or by such other person as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint Postponement for issue of process

Provided that no such direction shall be made—

(a) unless the complainant has been examined on oath under the provisions of section 200, or

(b) where the complaint has been made by a Court under the provisions of this Code

(2) If any inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police station except that he shall not have power to arrest without warrant", and

(ii) after sub section (2) the following sub section shall be added, namely —

"(2A) Any Magistrate inquiring into a case under this section may, if he thinks fit take evidence of witnesses on oath"

56 In section 203 of the said Code, for the words "after examining the complainant and considering the result of the investigation (if any) made under section 202" the words "after considering the statement on oath (if any) of the complainant and the result of any investigation or inquiry under section 202" shall be substituted Amendment of section 203 Code of Criminal Procedure 1898

57. In sub section (1) of section 206 of the said Code, after the words "or any Magistrate" the words and brackets "(not being a Magistrate of the third class)" shall be inserted Amendment of section 206 Code of Criminal Procedure 1898

Amendment of section 210, Code of Criminal Procedure, 1898.

58. In sub-section (*2*) of section 210 of the said Code, for the words "the charge" the words "such charge" shall be substituted

Amendment of section 215, Code of Criminal Procedure, 1898.

59. In section 215 of the said Code, the words and figures "or by a Court of Session under section 477" shall be omitted

Amendment of section 219 Code of Criminal Procedure, 1898

60. (*1*) In sub-section (*1*) of section 219 of the said Code, for the words "The Magistrate" the words "The committing Magistrate or, in the absence of such Magistrate, any other Magistrate empowered by or under section 206" shall be substituted

(*2*) In sub-section (*2*) of the same section, for the words "if the accused so require, be given to him free of cost" the words "be given to the accused free of cost" shall be substituted

Amendment of section 221, Code of Criminal Procedure, 1898

61. In sub-section (*7*) of section 221 of the said Code,—

(i) for the words "has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of effecting the punishment which the Court is competent to award," the following shall be substituted, namely —

"having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence," and

(ii) for the words "is omitted" the words "has been omitted" shall be substituted

Amendment of section 234 Code of Criminal Procedure, 1898.

62. In section 234 of the said Code,—

(i) in sub-section (*1*), after the words "such offences" the words "whether in respect of the same person or not" shall be inserted; and

(ii) to sub-section (*2*) the following proviso shall be added, namely —

"Provided that, for the purpose of this section, an offence punishable under section 379 of the Indian Penal Code shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the Indian Penal Code, or of any special or local law, shall be deemed to

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be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence "

63. Sub section (2) of section 237 of the said Code shall be omitted. Amendment of section 237, Code of Criminal Procedure 1898

64. After sub section (2) of section 238 of the said Code the following sub section shall be inserted, namely — Amendment of section 238, Code of Criminal Procedure 1898

" (2A) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged "

65. For section 239 of the said Code the following section shall be substituted, namely — Substitution of new section for section 239, Code of Criminal Procedure, 1898

" 239 The following persons may be charged and tried together, namely — What persons may be charged jointly

(a) persons accused of the same offence committed in the course of the same transaction,

(b) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence

(c) persons accused of more than one offence of the same kind within the meaning of section 234 committed by them jointly within the period of twelve months

(d) persons accused of different offences committed in the course of the same transaction,

(e) persons accused of an offence which includes theft, extortion, or criminal misappropriation and persons accused of receiving or retaining or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons or of abetment of or attempting to commit any such last-named offence

(f) persons accused of offences under sections 411 and 414 of the Indian Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence and XLV of 1860.

(g) persons accused of any offence under Chapter XII of the Indian Penal Code relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin or of abetment of or attempting to commit any such offence, XLV of 1860

and the provisions contained in the former part of this Chapter shall, so far as may be apply to all such charges

Amendment of section 243, Code of Criminal Procedure, 1898

66 In section 243 of the said Code, for the words "shall convict" the words may convict shall be substituted

Amendment of section 244 Code of Criminal Procedure 1898

67. In section 244 of the said Code,—

(i) in sub section (1), before the words If the accused" the words If the Magistrate does not convict the accused under the preceding section or shall be inserted, and to the same sub section the following proviso shall be added namely —

Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court and

(ii) in sub section (2) for the words process to compel the attendance of any witness or the production of" the words "a summons to any witness directing him to attend or to produce" shall be substituted

Amendment of section 245 Code of Criminal Procedure 1898

68 For sub section (2) of section 245 of the said Code the following shall be substituted, namely —

(2) Where the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty pass sentence upon him according to law

Amendment of section 250 Code of Criminal Procedure 1898

69 In section 250 of the said Code —

(i) for sub sections (1) and (2) the following sub sections shall be substituted namely —

False, frivolous or vexatious accusations

(1) If in any case instituted upon complaint or upon information given to a police officer or to a Magistrate one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate

may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or, if such person is not present, direct the issue of a summons to him to appear and show cause as aforesaid

(2) The Magistrate shall record and consider any cause which such complainant or informant may show, and if he is satisfied that the accusation was false and either frivolous or vexatious may, for reasons to be recorded, direct that compensation to such amount not exceeding one hundred rupees or if the Magistrate is a Magistrate of the third class not exceeding fifty rupees as he may determine, be paid by such complainant or informant to the accused or to each or any of them

(2A) The Magistrate may, by the order directing payment of the compensation under sub section (2), further order that, in default of payment, the person ordered to pay such compensation shall suffer simple imprisonment for a period not exceeding thirty days

(2B) When any person is imprisoned under sub section (2A), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply.

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(2C) No person who has been directed to pay compensation under this section shall by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter",

(ii) in sub section (3), for the word and figure "sub section (1)" the word and figure "sub section (2)" shall be substituted, and for the words "to an accused person" the following shall be substituted, namely —

"or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees"

(iii) to sub section (4) after the words "appeal has been decided" the following shall be added, namely —

"and, where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order", and

(iv) sub section (5) shall be omitted

Amendment of section 252 Code of Criminal Procedure 1898

70 To sub section (1) of section 252 of the said Code the following proviso shall be added, namely —

Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court

Insertion of new section 255A in the Code of Criminal Procedure 1898

71 After section 255 of the said Code the following section shall be inserted namely —

Procedure in case of previous convictions

255A In a case where a previous conviction is charged under the provisions of section 221 sub section (7), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may after he has convicted the said accused under section 255 sub section (2) or section 258 take evidence in respect of the alleged previous conviction and shall record a finding thereon '

Amendment of section 256 Code of Criminal Procedure 1898

72 In sub section (1) of section 256 of the said Code, after the words *to state* the words *at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded in writing so thinks fit forthwith* shall be inserted

Amendment of section 258 Code of Criminal Procedure 1898

73 For sub section (2) of section 258 of the said Code the following sub section shall be substituted namely —

(2 Where in any case under this Chapter the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall if he finds the accused guilty pass sentence upon him according to law

Amendment of section 259 Code of Criminal Procedure 1898

74 In section 259 of the said Code after the words ' and the offence may be lawfully compounded the words or is not a cognizable offence shall be inserted

Amendment of section 261 Code of Criminal Procedure 1898

75 *In section 261 of the said Code* —

(a) in clause (a) for the word and figures and 447 the figures and word 447 and 501 *shall be substituted*, and

(b) in clause (b) after the word one month,' the words " with or without fine shall be added

Amendment of section 266, Code of Criminal Procedure, 1898.

76. To section 266 of the said Code, after the words "for the purposes of this Chapter," the words "and of Chapter XVIII" shall be added.

Amendment of section 276, Code of Criminal Procedure, 1898.

77. In the third proviso to section 276 of the said Code, for the words "in the presidency towns" the words "in a trial before any High Court in the town which is the usual place of sitting of such High Court" shall be substituted.

Amendment of section 288, Code of Criminal Procedure, 1898.

78. In section 288 of the said Code,—

(i) for the words "duly taken in the presence of the accused before the committing Magistrate" the words "duly recorded in the presence of the accused under Chapter XVIII" shall be substituted, and

(ii) after the words "as evidence in the case," the words "for all
1872 purposes subject to the provisions of the Indian Evidence Act, 1872" shall be added.

Substitution of new section for section 292, Code of Criminal Procedure, 1898.

79. For section 292 of the said Code the following section shall be substituted, namely:—

Prosecutor's right of reply.

"292. The prosecutor shall be entitled to reply—

(a) if the accused or any of the accused adduces any oral evidence, or

(b) with the permission of the Court, on a point of law, or

(c) with the permission of the Court, when any document which does not need to be proved is produced by any accused person after he enters on his defence:

Provided that, in the case referred to in clause (c), the reply shall, unless the Court otherwise permits, be restricted to comment on the document so produced."

[illegible] of section 306, Code of Criminal Procedure, 1898.

80. In sub-section (2) of section 306 of the said Code, after the word "shall" where it occurs for the second time, the words "unless he proceeds in accordance with the provisions of section 562" shall be inserted.

[illegible] of section 307, Code of Criminal Procedure, 1898.

81. In section 307 of the said Code,—

(1) in sub-section (1)—

(i) for the words "the accused" the words "any accused person" shall be substituted,

(ii) after the words "to submit the case" the words "in respect of such accused person" shall be inserted, and

(iii) after the words "considers to have been committed," the following shall be added, namely —

and in such case, if the accused is further charged under the provisions of section 310, shall proceed to try him on such charge as if such verdict had been one of conviction", and

(2) in sub-sections (2) and (3), for the words "the accused" wherever they occur, the words "such accused" shall be substituted

Amendment of section 309, Code of Criminal Procedure, 1898.

82. In section 309 of the said Code,—

(i) in sub-section (1), after the word "orally" the following shall be inserted namely —

"on all the charges on which the accused has been tried," and after the words "such opinion" the following shall be inserted, namely —

"and for that purpose may ask the assessors such questions as are necessary to ascertain what their opinions are All such questions and the answers to them shall be recorded" and

(ii) in sub-section (3), after the word "shall" the words "unless he proceeds in accordance with the provisions of section 562" shall be inserted

Substitution of new section for section 310 Code of Criminal Procedure 1898

83. For section 310 of the said Code the following section shall be substituted, namely —

Procedure in case of previous conviction

"310 In the case of a trial by a jury or with the aid of assessors when the accused is charged with an offence and further charged that he is by reason of a previous conviction liable to enhanced punishment or to punishment of a different kind for such subsequent offence, the procedure prescribed by the foregoing provisions of this Chapter shall be modified as follows, namely —

(a) Such further charge shall not be read out in Court and the accused shall not be asked to plead thereto, nor shall the same be referred to by the prosecution, or any evidence adduced thereon unless and until,

(i) he has been convicted of the subsequent offence, or

(ii) the jury have delivered their verdict, or the opinions of the assessors have been recorded, on the charge of the subsequent offence

(b) In the case of a trial held with the aid of assessors the Court may in its discretion, proceed or refrain from proceeding with the trial of the accused on the charge of the previous conviction '

84 In sub section (1) of section 315 of the said Code for the words 'in each presidency town the words in the town which is the usual place of sitting of each High Court shall be substituted, and for the words at least twenty seven of those who are liable to serve on special juries, and fifty four of those who are liable to serve on common juries, the words as many of those who are liable to serve on special or common juries respectively as the Clerk of the Crown considers necessary shall be substituted Amendment of section 315 Code of Criminal Procedure 1898

85 In section 316 of the said Code, for the words presidency-towns the words town which is the usual place of sitting of such High Court shall be substituted Amendment of section 316 Code of Criminal Procedure 1898

86 In section 337 of the said Code — Amendment of section 337 Code of Criminal Procedure 1898

(i) for sub section (1) the following sub sections shall be substituted, namely —

(1) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years or any offence punishable under section 211 of the Indian Penal Code with imprisonment which may extend to seven years or any offence under any of the following sections of the Indian Penal Code namely sections 216A 369 401 435 and 477A, the District Magistrate a Presidency Magistrate, a Sub divisional Magistrate or any Magistrate of the first class may at any stage of the investigation or inquiry into or the trial of the offence with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned whether as principal or abettor in the commission thereof

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XLV of 1860

Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof

(*1A*) Every Magistrate who tenders a pardon under sub section (*1*) shall record his reasons for so doing, and shall, on application made by the accused, furnish him with a copy of such record

Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost ",

(ii) in sub section (*2*), for the words " the case " the words " the Court of the Magistrate taking cognizance of the offence and in the subsequent trial if any shall be substituted,

(iii) after sub section (2) the following sub section shall be inserted, namely —

(2A) In every case where a person has accepted a tender of pardon and has been examined under sub section (2), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be

(iv) in sub section (3) for the words " if not on bail " the words unless he is already on bail shall be substituted, and the words " by the Court of Session or High Court, as the case may be," shall be omitted and

(v) sub section (*1*) shall be omitted

Amendment of section 339, Code of Criminal Procedure, 1898

87. (*1*) In sub-section (*1*) of section 339 of the said Code, after the words and figures section 338 and the words " the Public Prosecutor certifies that in his opinion " shall be inserted, for the words " he may be " the words such person may be " shall be substituted; and to the said sub section the following proviso shall be added, namely —

Provided that such person shall not be tried jointly with any of the other accused and that he shall be entitled to plead at such trial

that he has complied with the conditions upon which such tender was made, in which case it shall be for the prosecution to prove that such conditions have not been complied with "

(2) In sub section (2) of the same section, for the words " when the pardon has been forfeited under this section " the words " at such trial " shall be substituted

88. After section 339 of the said Code the following section shall be inserted, namely — Insertion of new section 339A in the Code of Criminal Procedure, 1898

" 339A (1) The Court trying under section 339 a person who has accepted a tender of pardon shall— Procedure in trial of person under section 339

(a) if the Court is a High Court or Court of Session, before the charge is read out and explained to the accused under section 271, sub section (1), and

(b) if the Court is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of the pardon was made

(2) If the accused does so plead the Court shall record the plea and proceed with the trial and the jury, or the Court with the aid of the assessors or the Magistrate as the case may be shall before judgment is passed in the case find whether or not the accused has complied with the conditions of the pardon and if it is found that he has so complied, the Court shall notwithstanding anything contained in this Code, pass judgment of acquittal '

89 For section 340 of the said Code the following section shall be substituted namely — Substitution of new section for section 340 Code of Criminal Procedure, 1898

340 (1) Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code in any such Court may of right be defended by a pleader Right of person against whom proceedings are instituted to be defended and his competency to be a witness.

(2) Any person against whom proceedings are instituted in any such Court under section 107 or under Chapter X Chapter XI Chapter XII or Chapter XXXVI or under section 552 may offer himself as a witness in such proceedings '

Amendment of section 345, Code of Criminal Procedure, 1898.

90. In section 345 of the said Code,—

(i) in sub-section (1), for the word "described" the word "specified" shall be substituted, and to the table in that sub-section, after the entry relating to criminal intimidation, the following entry shall be added, namely:—

"Act caused by making a person believe that he will be an object of divine displeasure	508	The person against whom the offence was committed."

(ii) for sub-section (2) the following sub-section shall be substituted, namely:—

"(2) The offences punishable under the sections of the Indian Penal Code specified in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that table:— XLV of 1860.

Offence	Sections of the Indian Penal Code applicable	Persons by whom offence may be compounded
Voluntarily causing hurt by dangerous weapons or means	324	The person to whom hurt is caused
Voluntarily causing grievous hurt	325	Ditto
Voluntarily causing grievous hurt on grave and sudden provocation	335	Ditto
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others	337	Ditto
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others	338	Ditto
Wrongfully confining a person for three days or more	343	The person confined
Wrongfully confining a person in secret	346	Ditto
Assault or criminal force in attempting wrongfully to confine a person	357	The person assaulted or to whom the force was used
Dishonest misappropriation of property	403	The owner of the property misappropriated
Cheating	417	The person cheated
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect	418	Ditto
Cheating by personation	419	Ditto
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security	420	Ditto.

Offence	Sections of the Indian Penal Code applicable	Persons by whom offence may be compounded
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person	430	The person to whom the loss or damage is caused
House trespass to commit an offence (other than theft) punishable with imprisonment	451	The person in possession of the house trespassed upon
Using a false trade or property mark	482	The person to whom loss or injury is caused by such use
Counterfeiting a trade or property mark used by another	483	The person whose trade or property mark is counterfeited
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeit trade or property mark	486	Ditto
Marrying again during the lifetime of a husband or wife	494	The husband or wife of the person so marrying
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman	509	The woman whom it is intended to insult or whose privacy is intruded upon."

(iii) in sub-section (*1*), for the words "a minor" the words "under the age of eighteen years or is" shall be substituted, and after the word "may" the words "with the permission of the Court" shall be inserted,

(iv) after sub section (*5*) the following sub section shall be inserted, namely —

"(*5A*) A High Court acting in the exercise of its powers of revision under section 439 may allow any person to compound any offence which he is competent to compound under this section", and

(v) to sub section (*6*), after the word "accused" the words "with whom the offence has been compounded" shall be added

91. In sub section (*1*) of section 347 of the said Code, the words "stop further proceedings and" shall be omitted

Amendment of section 347, Code of Criminal Procedure, 1898

92 (*1*) Section 348 of the said Code shall be re numbered 348 (*1*), and in the said section, as re numbered, after the word "shall" the words "if the Magistrate before whom the case is pending is satisfied that there are sufficient grounds for committing the accused" shall be

Amendment of section 348, Code of Criminal Procedure, 1898.

inserted, and for the words "before whom the proceedings are pending" the words "is competent to try the case and" shall be substituted.

(2) In the proviso to the same section, as re-numbered, for the words "the District Magistrate" the words "any Magistrate in the district" shall be substituted.

(3) To the same section, as re-numbered, the following sub-section shall be added, namely:—

"(2) When any person is committed to the Court of Session or High Court under sub-section (1), any other person accused jointly with him in the same inquiry or trial shall be similarly committed, unless the Magistrate discharges such other person under section 209."

Amendment of section 349, Code of Criminal Procedure, 1898.

93. After sub-section (1) of section 349 the following sub-section shall be inserted, namely:—

"(1A) When more accused than one are being tried together, and the Magistrate considers it necessary to proceed under sub-section (1) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-divisional Magistrate."

Amendment of section 350, Code of Criminal Procedure, 1898.

94. To sub-section (2) of section 350 of the said Code, after the figures "346" the words "or in which proceedings have been submitted to a superior Magistrate under section 349" shall be added, and after the same sub-section the following sub-section shall be added, namely:—

"(3) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein and to be succeeded by the latter within the meaning of sub-section (1)."

Insertion of new section 350A in the Code of Criminal Procedure, 1898.

95. After section 350 of the said Code the following section shall be inserted, namely:—

Changes in constitution of Benches.

"350A. No order or judgment of a Bench of Magistrates shall be invalid by reason only of a change having occurred in the constitution of the Bench in any case in which the Bench by which such order or judgment is passed is duly constituted under sections 15 and 16, and the Magistrates constituting the same have been present on the Bench throughout the proceedings."

96 In section 356 of the said Code, after sub section (2), the following sub section shall be inserted, namely — Amendment of section 356 Code of Criminal Procedure 1898

"(2A) When the evidence of such witness is given in any other language not being English, than the language of the Court, the Magistrate or Sessions Judge may take it down in that language with his own hand or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence and an authenticated translation of such evidence in the language of the Court or in English shall form part of the record "

97 In section 362 of the said Code — Amendment of section 362 Code of Criminal Procedure 1898

(i) in sub section (1) for the words in which a Presidency Magistrate imposes a fine exceeding two hundred rupees or imprisonment for a term exceeding six months he the words tried by a Presidency Magistrate in which an appeal lies, such Magistrate shall be substituted,

(ia) after sub section (2) the following sub section shall be inserted —

(2A) In every case referred to in sub section (1) the Magistrate shall make a memorandum of the substance of the examination of the accused Such memorandum shall be signed by the Magistrate with his own hand and shall form part of the record

(ii) to sub section (3) after the word sentence the words unless they are sentences of imprisonment ordered to run concurrently shall be added and

(iii) after sub section (3) the following sub section shall be added namely —

(4) In cases other than those specified in sub section (1), it shall not be necessary for a Presidency Magistrate to record the evidence or frame a charge

98 *Amendment of section 364 Code of Criminal Procedure 1898 Repealed by s 6 of the Code of Criminal Procedure (Second Amendment Act 1923 (3[illegible] of 1923)*

99 In section 365 of the said Code, for the word may the word shall shall be substituted and for the words and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed the words and the evidence shall be taken down in accordance with such rule shall be substituted Amendment of section 365 Code of Criminal Procedure 1898

Amendment of section 367, Code of Criminal Procedure 1898

100 In section 367 of the said Code,—

(i) in sub section (*1*), after the words "presiding officer of the Court the words or from the dictation of such presiding officer" shall be inserted,

(ii) to the same sub section the following words shall be added, namely —

" and where it is not written by the presiding officer with his own hand every page of such judgment shall be signed by him ", and

(iii) after sub section (*5*) the following sub section shall be added, namely —

(*6*) For the purposes of this section, an order under section 118 or section 123 sub section (*3*), shall be deemed to be a judgment "

Amendment of section 369 Code of Criminal Procedure 1898

101. In section 369 of the said Code for the words ' No Court other than a High Court the words Save as otherwise provided by this Code or by any other law for the time being in force or, in the case of a High Court established by Royal Charter, by the Letters Patent of such High Court, no Court shall be substituted, and the words and figures as provided in sections 395 and 484 or shall be omitted

Substitution of new section for section 386 Code of Criminal Procedure 1898

102 For section 386 of the said Code the following section shall be substituted namely —

Warrant for levy of fine

386 (*1*) Whenever an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways that is to say, it may—

(*a*) issue a warrant for the levy of the amount by attachment and sale of any moveable property belonging to the offender,

(*b*) issue a warrant to the Collector of the District authorising him to realise the amount by execution according to civil process against the moveable or immoveable property, or both of the defaulter

Provided that if the sentence directs that in default of payment of the fine the offender shall be imprisoned and if such offender has undergone the whole of such imprisonment in default no Court shall issue such warrant unless for special reasons to be recorded in writing it considers it necessary to do so

(*2*) The Local Government may make rules regulating the manner in which warrants under sub section (*1*), clause (*a*), are to be executed,

and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant

(3) Where the Courts issue a warrant to the Collector under sub-section (1), clause (b), such warrant shall be deemed to be a decree, and the Collector to be the decree-holder, within the meaning of the Code of Civil Procedure, 1908, and the nearest Civil Court by which any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly

[V of 1908]

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender"

103. In section 387 of the said Code, for the words "Such warrant" the words "A warrant issued under section 386, sub-section (1), clause (a), by any Court" shall be substituted, and for the word "distress" the word "attachment" shall be substituted

Amendment of section 387, Code of Criminal Procedure, 1898

104. *Amendment of section 388, Code of Criminal Procedure, 1898 Repealed by s. 6 of the Code of Criminal Procedure (Second Amendment) Act, 1923 (37 of 1923)*

105. In section 395 of the said Code —

Amendment of section 395 Code of Criminal Procedure, 1898

(i) in sub-section (1), after the words "twelve months" the words "or to a fine not exceeding five hundred rupees" shall be inserted, and

(ii) in sub-section (2), after the words "for a term" the words "or a fine of an amount" shall be inserted

106. In section 397 of the said Code —

Amendment of section 397, Code of Criminal Procedure, 1898

(i) after the words "to which he has been previously sentenced" the words "unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence" shall be inserted, and

(ii) after the proviso the following further proviso shall be added, namely —

"Provided, further, that where a person who has been sentenced to imprisonment by an order under section 123 in default of furnishing security, is whilst undergoing such sentence, sentenced to imprisonment

for an offence committed prior to the making of such order, the latter sentence shall commence immediately."

Amendment of section 401, Code of Criminal Procedure, 1898

107. In section 401 of the said Code,—

(i) to sub-section (2), after the words "together with his reasons for such opinion" the following words shall be added, namely:—

"and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists";

(ii) after sub-section (4) the following sub-section shall be inserted, namely:—

"(4A) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property";

(iii) in sub-section (5), for the words "Her Majesty" the words "His Majesty or of the Governor General when such right is delegated to him" shall be substituted; and

(iv) after sub-section (5) the following sub-section shall be inserted, namely:—

"(5A) Where a conditional pardon is granted by His Majesty or, in virtue of any powers delegated to him, by the Governor General, any condition thereby imposed, of whatever nature, shall be deemed to have been imposed by a sentence of a competent Court under this Code and shall be enforceable accordingly."

Amendment of section 402, Code of Criminal Procedure, 1898

108. Section 402 of the said Code shall be re-numbered section 402 (1), and, to the said section, as re-numbered, the following sub-section shall be added, namely:—

"(2) Nothing in this section shall affect the provisions of section 54 or section 55 of the Indian Penal Code." XLV of 1860.

Substitution of new section for section 406, Code of Criminal Procedure, 1898

109. For section 406 of the said Code the following section shall be substituted, namely:—

Appeal from order requiring security for keeping the peace or for good behaviour

"406. Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order—

(a) if made by a Presidency Magistrate, to the High Court;

(b) if made by any other Magistrate, to the Court of Session:

Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session

Provided, further, that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub section (2) or sub section (3A) of section 123 "

110 After section 406 of the said Code the following section shall be inserted namely —, Insertion of new section 406A in the Code of Criminal Procedure, 1898

" 406A Any person aggrieved by an order refusing to accept or rejecting a surety under section 122 may appeal against such order — Appeal from order refusing to accept or rejecting a surety

(a) if made by a Presidency Magistrate to the High Court

(b) if made by the District Magistrate to the Court of Session or

(c) if made by a Magistrate other than the District Magistrate to the District Magistrate

111 In sub section (1) of section 407 of the said Code, after the figures 349 the words and figures or in respect of whom an order has been made or a sentence has been passed under section 380 shall be inserted Amendment of section 407 Code of Criminal Procedure 1898

112 In section 408 of the said Code — Amendment of section 408 Code of Criminal Procedure, 1898.

(i) after the figures 349 the words and figures or in respect of whom an order has been made or a sentence has been passed under section 380 shall be inserted and

(ii) in clause (b) of the proviso after the word appeal the following words shall be inserted, namely —

of all or any of the accused convicted at such trial

113 To section 409 of the said Code the following proviso shall be added namely — Amendment of section 409 Code of Criminal Procedure 1898

Provided that an Additional Sessions Judge shall hear only such appeals as the Local Government may, by general or special order, direct or as the Sessions Judge of the division may make over to him "

Insertion of new section 415A in the Code of Criminal Procedure, 1898.

114 After section 415 of the said Code the following section shall be inserted, namely —

Special right of appeal in certain cases.

"415A Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal."

Amendment of section 418, Code of Criminal Procedure, 1898.

115. Section 418 of the said Code shall be re-numbered section 418 *(1)*, and, to the said section, as re-numbered, the following sub-section shall be added, namely —

"(2) Notwithstanding anything contained in sub-section *(1)* or in section 423, sub-section *(2)*, when, in the case of a trial by jury, any person is sentenced to death, any other person convicted in the same trial with the person so sentenced may appeal on a matter of fact as well as a matter of law."

Amendment of section 435, Code of Criminal Procedure, 1898.

116. In section 435 of the said Code,—

(i) to sub-section *(1)*, after the words "proceedings of such inferior Court," the following words shall be added, namely :—

"and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record ",

(ii) after the same sub-section the following *Explanation* shall be added, namely —

"*Explanation* —All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 437," and

(iii) sub-section (3) shall be omitted

Transposition of sections 436 and 437 and amendment of section 437, Code of Criminal Procedure, 1898.

117. Sections 436 and 437 of the said Code shall be re-numbered 437 and 436, respectively, and, in the latter section, as re-numbered,—

(a) for the words "accused person" the words "person accused of an offence" shall be substituted, and

(b) after the word "discharged" the following proviso shall be added, namely —

"Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless

such person has had an opportunity of showing cause why such direction should not be made

Amendment of section 438 Code of Criminal Procedure, 1898

118 In sub section (*2*) of section 438 of the said Code, for the words "by the Sessions Judge" the words "by or under any general or special order of the Sessions Judge" shall be substituted

Amendment of section 439 Code of Criminal Procedure, 1898

119 In sub section (*1*) of section 439 of the said Code, the figures "195" shall be omitted, and after sub section (*5*) of the same section the following sub section shall be added namely —

"(*6*) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub section (*2*) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction "

Amendment of section 464 Code of Criminal Procedure, 1898

120 In section 464 of the said Code,—

(i) after sub section (*1*) the following sub section shall be inserted, namely —

"(*1A*) Pending such examination and inquiry, the Magistrate may deal with the accused in accordance with the provisions of section 466 and

(ii) in sub section (*2*), after the word "he" the words "shall record a finding to that effect and" shall be inserted

Amendment of section 465 Code of Criminal Procedure 1898

121 In sub section (*1*) of section 465 of the said Code, for the words "and, if satisfied of the fact shall pass judgment accordingly, and thereupon the trial shall be postponed" the following words shall be substituted namely —

"and if the jury or Court, as the case may be is satisfied of the fact, the Judge shall record a finding to that effect, and shall postpone further proceedings in the case and the jury if any shall be discharged"

Amendment of section 466 Code of Criminal Procedure 1898

122 In section 466 of the said Code —

(i) in sub section (*1*) for the words "if the case is one in which bail may be taken" the words "whether the case is one in which bail may be taken or not" shall be substituted and

(ii) for sub section (*2*) the following sub section shall be substituted, namely —

Custody of lunatic

"(*2*) If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not the

Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the Local Government

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the Local Government may have made under the Indian Lunacy Act, 1912 " IV of

Amendment of section 468, Code of Criminal Procedure, 1898

123. In sub section (*2*) of section 468 of the said Code, the word " person " shall be omitted, and the following words shall be added after the words " as the case may be," namely —

" and if the accused is found to be of unsound mind and incapable of making his defence, shall deal with such accused in accordance with the provisions of section 466 "

Amendment of section 471, Code of Criminal Procedure, 1898

124. (*1*) In sub section (*1*) of section 471 of the said Code,—

(i) for the words " such judgment " the words " the finding " shall be substituted,

(ii) for the word " kept " the word " detained " shall be substituted, and

(iii) after the words " Court thinks fit," the words " and shall report the action taken to the Local Government " shall be inserted

(2) After sub section (*1*) of the same section the following proviso shall be inserted, namely —

" Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the Local Government may have made under the Indian Lunacy Act, 1912 " IV 19

(3) Sub section (*4*) of the same section shall be re numbered (*2*)

Amendment of section 473 Code of Criminal Procedure, 1898

125 In section 473 of the said Code, for the word " confined " the word " detained " shall be substituted, and for the words " such Inspector General or visitors the words " in the case of a person detained in a jail, the Inspector General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum, or any two of them " shall be substituted

Amendment of section 474 Code of Criminal Procedure, 1898

126 In section 474 of the said Code, for the word " confined " the word " detained " shall be substituted, and for the words " discharged" (wherever it occurs) and " discharge " the words " released " and release," respectively, shall be substituted

127. For section 475 of the said Code the following section shall be substituted, namely:— Substitution of new section for section 475, Code of Criminal Procedure, 1898.

"475. (*1*) Whenever any relative or friend of any person detained under the provisions of section 466 or section 471 desires that he shall be delivered to his care and custody, the Local Government may, upon the application of such relative or friend and on his giving security to the satisfaction of such Local Government that the person delivered shall— Delivery of lunatic to care of relative or friend.

(*a*) be properly taken care of and prevented from doing injury to himself or to any other person, and

(*b*) be produced for the inspection of such officer, and at such times and places, as the Local Government may direct, and

(*c*) in the case of a person detained under section 466, be produced when required before such Magistrate or Court,

order such person to be delivered to such relative or friend.

(*2*) If the person so delivered is accused of any offence the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in sub-section (*1*), clause (*b*), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court, and, upon such production, the Magistrate or Court shall proceed in accordance with the provisions of section 468, and the certificate of the inspecting officer shall be receivable as evidence."

128. For section 476 of the said Code the following sections shall be substituted, namely:— Substitution of new sections for section 476, Code of Criminal Procedure, 1898.

"476. (*1*) When any Civil, Revenue or Criminal Court is, whether on application made to it in this behalf or otherwise, of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in section 195, sub-section (*1*), clause (*b*) or Procedure in cases mentioned in section 195.

clause (*c*) which appears to have been committed in or in relation to a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, record a finding to that effect and make a complaint thereof in writing signed by the presiding officer of the Court, and shall forward the same to a Magistrate of the first class having jurisdiction, and may take sufficient security for the appearance of the accused before such Magistrate or if the alleged offence is non-bailable may, if it thinks necessary so to do, send the accused in custody to such Magistrate, and may bind over any person to appear and give evidence before such Magistrate.

For the purposes of this sub-section, a Chief Presidency Magistrate shall be deemed to be a Magistrate of the first class.

(*2*) Such Magistrate shall thereupon proceed according to law and as if upon complaint made under section 200.

(*3*) Where it is brought to the notice of such Magistrate, or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage adjourn the hearing of the case until such appeal is decided.

Superior Court may complain where subordinate Court has omitted to do so.

476A. The power conferred on Civil, Revenue and Criminal Courts by section 476, sub-section (*1*), may be exercised, in respect of any offence referred to therein and alleged to have been committed in or in relation to any proceeding in any such Court, by the Court to which such former Court is subordinate within the meaning of section 195, sub-section (*3*), in any case in which such former Court has neither made a complaint under section 476 in respect of such offence nor rejected an application for the making of such complaint, and, where the superior Court makes such complaint, the provisions of section 476 shall apply accordingly.

Appeals.

476B. Any person on whose application any Civil, Revenue or Criminal Court has refused to make a complaint under section 476 or section 476A, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of section 195, sub-section (*3*), and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint

which the subordinate Court might have made under section 476, and, if it makes such complaint, the provisions of that section shall apply accordingly."

129. [*Repeal of section 477, Code of Criminal Procedure, 1898.*] *Repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).*

130. In section 487 of the said Code, the figures "477" shall be omitted. **Amendment of section 487, Code of Criminal Procedure, 1898.**

131. In section 488 of the said Code,— **Amendment of section 488, Code of Criminal Procedure, 1898.**

(i) in sub-section (1), for the word "fifty" the words "one hundred" shall be substituted;

(ii) in sub-section (3), for the words "wilfully neglects" the words "fails without sufficient cause" shall be substituted;

(iii) to the same sub-section the following proviso shall be added, namely:—

"Provided, further, that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due;"

(iv) sub-section (7) shall be omitted; and

(v) sub-sections (8) and (9) shall be re-numbered (7) and (8), respectively, and, in the last-named sub-section, for the words "The accused may be proceeded against" the words "Proceedings under this section may be taken against any person" shall be substituted.

132. (1) Section 489 of the said Code shall be re-numbered as sub-section (1) of section 489 and in that sub-section, as re-numbered, for the word "fifty" the words "one hundred" shall be substituted. **Amendment of section 489, Code of Criminal Procedure, 1898.**

(2) To the same section the following sub-section shall be added, namely:—

"(2) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 488 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly."

Amendment of section 492 Code of Criminal Procedure, 1898

133 (1) In sub-section (2) of section 492 of the said Code, the words "In any case committed for trial to the Court of Session" shall be omitted and for the words "such case" the words "any case" shall be substituted

(2) In the same sub-section for the words "the rank of Assistant District Superintendent" the words "such rank as the Local Government may prescribe in this behalf" shall be substituted

Amendment of section 494 Code of Criminal Procedure 1898

134 In section 494 of the said Code —

(i) the words "appointed by the Governor General in Council or the Local Government" shall be omitted

(ii) after the words "prosecution of any person" the words "either generally or in respect of any one or more of the offences for which he is tried" shall be inserted

(iii) after the word "discharged" in clause (*a*) the words "in respect of such offence or offences" shall be inserted, and

(iv) after the word "acquitted" in clause (*b*) the words "in respect of such offence or offences" shall be added

Amendment of section 496 Code of Criminal Procedure 1898

135 To section 496 of the said Code the following proviso shall be added namely

"Provided further that nothing in this section shall be deemed to affect the provisions of section 107, sub-section (*4*), or section 117, sub-section (3)"

Amendment of section 497 Code of Criminal Procedure 1898

136 In section 497 of the said Code —

(i) in sub-section (*1*) for the words "the offence of which he is accused" the words "an offence punishable with death or transportation for life" shall be substituted and to the same sub-section the following proviso shall be added namely —

"Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail"

(ii) in sub-section (2), for the words "such offence" the words "a non-bailable offence" shall be substituted

(iii) after sub-section (2) the following sub-sections shall be inserted namely —

"(3) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing

(4) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered", and

(iv) for sub section (5) the following sub section shall be substituted, namely --

"(5) A High Court or Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody"

137. (1) In sub section (1) of section 504 of the said Code, for the words "the said Presidency Magistrate" the words "such Presidency Magistrate" shall be substituted

Amendment of section 504, Code of Criminal Procedure, 1898

(2) After the same sub section the following sub-section shall be inserted, namely —

"(1A) When a commission is issued under this section to a Chief Presidency Magistrate, he may delegate his powers and duties under the commission to any Presidency Magistrate subordinate to him"

138. In sub section (1) of section 505 of the said Code, after the word "directed" the words "or to whom the duty of executing such commission has been delegated" shall be inserted

Amendment of section 505 Code of Criminal Procedure, 1898

139. In section 514 of the said Code,—

Amendment of section 514, Code of Criminal Procedure, 1898

(i) in sub section (3), for the word "distress" the word "attachment" shall be substituted, and

(ii) in sub section (6), the words "but the party who gave the bond may be required to find a new surety" shall be omitted, and, after the said sub section the following sub section shall be inserted namely —

"(7) When any person who has furnished security under section 106 or section 118 or section 562 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 514B, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved"

Insertion of new sections 514A and 514B in the Code of Criminal Procedure 1898

140 After section 514 of the said Code the following sections shall be inserted, namely —

Procedure in case of insolvency or death of surety or when a bond is forfeited

"514A When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 514 the Court, by whose order such bond was taken, or a Presidency Magistrate or Magistrate of the first class, may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and, if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order

Bond required from a minor

514B When the person required by any Court or officer to execute a bond is a minor, such Court or officer may accept in lieu thereof, a bond executed by a surety or sureties only "

Insertion of new section 516A in the Code of Criminal Procedure 1898

141 In Chapter XLIII of the said Code, before section 517 the following section shall be inserted, namely —

Order for custody and disposal of property pending trial in certain cases

"516A When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay may after recording such evidence as it thinks necessary order it to be sold or otherwise disposed of

Amendment of section 517 Code of Criminal Procedure 1898

142 In section 517 of the said Code —

(i) in sub section (*1*), after the word "disposal" the words "by destruction confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise" shall be inserted

(ii) for sub section (*3*) the following sub section shall be substituted, namely —

"(*3*) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by sub section (*4*) be carried out for one month or when an appeal is presented until such appeal has been disposed of " and

(iii) after sub section (3) the following sub-section shall be inserted, namely :—

"(4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal "

143. In section 522 of the said Code,— Amendment of section 522 Code of Criminal Procedure, 1898

(i) in sub section (1) after the word 'force" where it first occurs, the words ' or show of force or by criminal intimidation ' shall be inserted, and after the word ' force," where it occurs for the second time, the words "or show of force or criminal intimidation' shall be inserted, and for the words "such person" the words "the person dispossessed" shall be substituted;

(ii) in the same sub-section, after the words "thinks fit" the words "when convicting such person or at any time within one month from the date of the conviction" shall be inserted, and

(iii) after sub-section (2) the following sub section shall be added, namely —

'(3) An order under this section may be made by any Court of appeal, confirmation, reference or revision "

144. In section 525 of the said Code, for the words "or the Magistrate" the words "or if the Magistrate" shall be substituted, and after the word ' owner" the words "or that the value of such property is less than ten rupees" shall be inserted Amendment of section 525, Code of Criminal Procedure, 1898.

145 In section 526 of the said Code,— Amendment of section 526 Code of Criminal Procedure, 1898

(i) in sub clauses (ii) and (iii) of sub section (1), the word criminal" before the word case," and in sub clause (ii) the word ' such before the word 'cases ' shall be omitted

(ii) in sub section (5), for the word 'convicted" the words so ordered" shall be substituted, and for the words "the costs of the prosecutor" the words "any amount which the High Court has power under this section to award by way of costs to the person opposing the application" shall be substituted,

(iii) after sub section (6) the following sub section shall be inserted namely —

(6A) Where any application for the exercise of the power conferred by this section is dismissed the High Court may if it is of opinion that the application was frivolous or vexatious order the applicant to pay by way of costs to any person who has opposed the application any expenses reasonably incurred by such person in consequence of the application and

(iv) for sub section (8) the following sub sections shall be substituted namely —

(8) If in the course of any inquiry or trial or before the commencement of the hearing of any appeal the Public Prosecutor the complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under this section in respect of such case or appeal the Court shall adjourn the case or postpone the appeal for such a period as will afford a reasonable time for the application to be made and an order to be obtained thereon

(9) Notwithstanding anything hereinbefore contained a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub section (8) if he is of opinion that the person notifying his intention of making an application under this section has had a reasonable opportunity of making such an application and has failed without sufficient cause to take advantage of it

Amendment of section 527 Code of Criminal Procedure 1898

146 In sub section (1) of section 527 of the said Code the word criminal where it occurs before the word case shall be omitted

Amendment of section 528 Code of Criminal Procedure 1898

147 In section 528 of the said Code —

(i) sub sections (1) (2) (3) and (4) shall be renumbered (2) (3) (5) and (6) respectively and the following shall be inserted as sub section (1) namely —

Sessions Judge may withdraw cases from Assistant Sessions Judge

(1) Any Sessions Judge may withdraw any case from or recall any case which he has made over to any Assistant Sessions Judge subordinate to him

(ii) after sub section (3) as re numbered the following sub section shall be inserted namely —

(4) Any Magistrate may recall any case made over by him under section 192 sub section (2) to any other Magistrate and may inquire into or try such case himself and

(iii) for sub-section (9), as re-numbered, the following sub-section shall be substituted, namely —

Reg. 1816. Reg. 1821. "(6) The head of a village under the [1]Madras Village-police Regulation, 1816, or the [1]Madras Village-police Regulation, 1821, is a Magistrate for the purposes of this section "

148 In section 537 of the said Code,— Amendment of section 537, Code of Criminal Procedure, 1898

(i) clause (*b*) shall be omitted,

(ii) the word want, where it occurs for the second time, shall be omitted, and

(iii) the *Illustration* shall be omitted

149 In section 538 of the said Code for the word distress,' wherever it occurs the word attachment shall be substituted Amendment of section 538, Code of Criminal Procedure, 1898

150 After section 539 of the said Code the following sections shall be inserted, namely — Insertion of new sections 539A and 539B in the Code of Criminal Procedure, 1898

539A (*1*) When any application is made to any Court in the course of any inquiry trial or other proceeding under this Code and allegations are made therein respecting any public servant the applicant may give evidence of the facts alleged in the application by affidavit and the Court may if it thinks fit order that evidence relating to such facts be so given Affidavit in proof of conduct of public servant

An affidavit to be used before any Court other than a High Court under this section may be sworn or affirmed in the manner prescribed in section 539 or before any Magistrate

Affidavits under this section shall be confined to and shall state separately such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable grounds to believe to be true and in the latter case the deponent shall clearly state the grounds of such belief

(*2*) The Court may order any scandalous and irrelevant matter in an affidavit to be struck out or amended

539B (*1*) Any Judge or Magistrate may at any stage of any inquiry trial or other proceeding after due notice to the parties visit and inspect any place in which an offence is alleged to have been committed or any other place which it is in his opinion necessary to view for the purpose Local inspection

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of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection

(2) Such memorandum shall form part of the record of the case If the Public Prosecutor complainant or accused so desires a copy of the memorandum shall be furnished to him free of cost

Provided that in the case of a trial by jury or with the aid of assessors the Judge shall not act under this section unless such jury or assessors are also allowed a view under section 293

Insertion of new section 540A in the Code of Criminal Procedure 1898

151 After section 540 of the said Code the following section shall be inserted namely —

Provision for inquiries and trial being held in the absence of accused in certain cases

540A (*1*) At any stage of an inquiry or trial under this Code, where two or more accused are before the Court if the Judge or Magistrate is satisfied for reasons to be recorded that any one or more of such accused is or are incapable of remaining before the Court, he may, if such accused is represented by a pleader dispense with his attendance and proceed with such inquiry or trial in his absence and may, at any subsequent stage of the proceedings direct the personal attendance of such accused

(*2*) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary he may if he thinks fit and for reasons to be recorded by him, either adjourn such inquiry or trial or order that the case of such accused be taken up or tried separately

Amendment of section 545 Code of Criminal Procedure 1898

152 In section 545 of the said Code —

(i) for clause (*b*) of sub section (*1*) the following clause shall be substituted namely —

(*b*) in the payment to any person of compensation for any loss or injury caused by the offence when substantial compensation is in the opinion of the Court recoverable by such person in a Civil Court , and

(ii) to sub section (*1*) the following clause shall be added namely —

(*c*) when any person is convicted of any offence which includes theft criminal misappropriation criminal breach of trust or cheating,

or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any *bonâ fide* purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto "

153. After section 546 of the said Code the following section shall be inserted, namely — Insertion of new section 546A in the Code of Criminal Procedure, 1898

"546A (*1*) Whenever any complaint of a non cognizable offence is made to a Court, the Court if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant— Order of payment of certain fees paid by complainant in non cognizable cases

(*a*) the fee (if any) paid on the petition of complaint, or for the examination of the complainant, and

(*b*) any fees paid by the complainant for serving processes on his witnesses or on the accused,

and may further order that, in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days

(*2*) An order under this section may also be made by an Appellate Court, or by the High Court, when exercising its powers of revision "

154. In section 547 of the said Code, after the word " Code " the words " and the method of recovery of which is not otherwise expressly provided for " shall be inserted Amendment of section 547, Code of Criminal Procedure, 1898.

155. For section 559 of the said Code the following section shall be substituted, namely — Substitution of new section for section 559 Code of Criminal Procedure, 1898

"559 (*1*) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor in office Provision for powers of Judges and Magistrates being exercised by their successors in office

(*2*) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency town and the District Magistrate outside such towns, shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate

(*3*) When there is any doubt as to who is the successor in office of any Additional or Assistant Sessions Judge the Sessions Judge shall

determine by order in writing the Judge who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Additional or Assistant Sessions Judge "

Insertion of new section 561A in the Code of Criminal Procedure, 1898.

156 After section 561 of the said Code the following section shall be inserted, namely —

Saving of inherent power of High Court

' 561A Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice "

Substitution of new section for section 562, Code of Criminal Procedure, 1898

157. For section 562 of the said Code the following section shall be substituted, namely —

Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment

' 562 (*1*) When any person not under twenty one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty one years of age or any woman is convicted of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the Local Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class or Sub divisional Magistrate, forwarding the accused to, or taking bail for his appearance before such Magistrate, who shall dispose of the case in manner provided by section 380

(2) An order under this section may be made by any Appellate Court or by the High Court when exercising its power of revision

(3) When an order has been made under this section in respect of any offender, the High Court may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law

Provided that the High Court shall not under this sub section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted

(4) The provisions of sections 122, 126A and 406A shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section

158. For section 565 of the said Code the following section shall be substituted, namely —

Substitution of new section for section 565, Code of Criminal Procedure, 1898

Order for notifying address of previously convicted offender

'565 (*1*) When any person having been convicted—

(*a*) by a Court in British India of an offence punishable under section 215, section 489A, section 489B, section 489C, or section 489D of the Indian Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment of either description for a term of three years, or upwards, or

(*b*) by a Court or Tribunal in the territories of any Prince or State in India acting under the general or special authority of the Governor General in Council, or of any Local Government, of any offence which would if committed in British India, have been punishable under any of the aforesaid sections or Chapters of the Indian Penal Code with like imprisonment for a like term,

is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a High Court Court of Session, Presidency Magistrate, District Magistrate, Sub Divisional Magistrate, or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit at the time of passing sentence of transportation or imprisonment on such person, also order

that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence

(2) If such conviction is set aside on appeal or otherwise, such order shall become void

(3) The Local Government may make rules to carry out the provisions of this section relating to the notification of residence or change of or absence from residence by released convicts

(4) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision

(5) Any person against whom an order has been made under this section and who refuses or neglects to comply with any rule so made shall be deemed, within the meaning of section 176 of the Indian Penal Code, to have omitted to give a notice required for the purpose of preventing the commission of an offence XLV of 1860

(6) Any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as his place of residence is situated "

Amendment of Schedule II, Code of Criminal Procedure, 1898.

159. In Schedule II to the said Code,—

(1) in column 1, the figures "405" occurring between the figures "404" and "406" shall be omitted;

(2) for the first entry in column 3, against section 213, the words "May arrest without warrant" shall be substituted,

(3) for the entry in column 3, against section 214, the words "Shall not arrest without warrant" shall be substituted,

(4) for the entry in column 3 against section 215, the words "May arrest without warrant" shall be substituted

(5) for the entry in column 3, against section 371, the words "Shall not arrest without warrant" shall be substituted,

(6) for each of the entries in column 5, against sections 118, 119 and 120 occurring opposite the entries "If the offence be not committed" in column 2 the word "Bailable" shall be substituted, and for the entry in column 5 opposite the entry "120 Concealing a design to commit an offence punishable with imprisonment, if the offence be committed" the words "According as the offence concealed is bailable or not" shall be substituted,

(7) for the entry in column 5, against section 363, the word "Bailable" shall be substituted, and, for the entry in the same column, against section 364 the words "Not bailable" shall be substituted;

(8) for the entry in column 5, against section 177A, the word "Bailable" shall be substituted;

(9) for the entry in column 5, against section 195, the word "Bailable" shall be substituted;

(10) for each of the entries in column 6, against sections 343, 346 and 357, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted, and, for each of the entries in the same column, against sections 344 and 347 the words "Not compoundable" shall be substituted;

(11) for the entry in column 6, against section 403, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted;

(12) for each of the entries in column 6, against sections 417, 418, 419 and 420 the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted;

(13) for the entry in column 6 against section 430, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted and for the entry in the same column, against section 431, the words "Not compoundable" shall be substituted;

(14) for the first entry in column 6, against section 451, the following shall be substituted, namely:—"Compoundable when permission is given by the Court before which the prosecution is pending" and, for the second entry in that column, against the same section, the words "Not compoundable" shall be substituted;

(15) for the entry in column 6, against section 482 the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted and for the entry in the same column against section 484 the words "Not compoundable" shall be substituted;

(16) for the entry in column 6 against section 486, the words "Compoundable with permission of the Court before which the prosecution is pending" shall be substituted and for the entry in the same column against section 487 the words "Not compoundable" shall be substituted;

(*17*) for the entry in column 6, against section 494, the words "Compoundable with permission of the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 495, the words "Not compoundable" shall be substituted;

(*18*) for the entry in column 6, against section 508, the word "Compoundable" shall be substituted;

(*19*) for the entry in column 6, against section 509, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 510, the words "Not Compoundable" shall be substituted;

(*20*) in the entry in column 7, against section 121, for the words "forfeiture of property" the word "fine" shall be substituted;

(*21*) in the entry in column 7, against section 121A, after the word "years" the words "and fine" shall be inserted;

(*22*) in the entry in column 7, against section 122, for the words "forfeiture of property" the word "fine" shall be substituted;

(*23*) for the entry in column 7, against section 477A, the words "Imprisonment of either description for seven years, or fine, or both" shall be substituted;

(*24*) for the entry in column 8, against section 294, the words "Any Magistrate" shall be substituted;

(*25*) for the entry in column 8, against section 317, the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted;

(*26*) in the entry in column 8, against section 318, the words "or second" shall be omitted;

(*27*) for the entry in column 8, against section 327, the words "Court of Session, Presidency Magistrate, or Magistrate of the first class" shall be substituted; and, for the entry in the same column, against section 328, the words "Court of Session" shall be substituted;

(*28*) for the entry in column 8, against section 368, the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted;

(*29*) for the entry in column 8, against section 477A, the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted;

(30) for the entry in column 8, against section 491, the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted, and, for the entry in the same column, against section 195, the words "Court of Session" shall be substituted.

160. In Schedule III to the said Code,—

Amendment of Schedule III, Code of Criminal Procedure, 1898.

(i) under Head I (*Ordinary Powers of a Magistrate of the Third Class*)—

(1) in item (5), after the word "property" the words "and to dispose of claims to attached property" shall be inserted,

(2) item (13) shall be omitted,

(3) in item (14), after the word "detention" the words "not being detention in the custody of the police" shall be inserted,

(4) the following item shall be inserted between items (14) and (15), namely —

"(14a) Power to postpone issue of process and inquire into case himself, section 202,"

(5) to item (18), the words, figures and letter "and to require fresh security, section 514A" shall be added,

(6) after item (18) the following item shall be inserted, namely —

"(18a) power to make order as to custody and disposal of property pending inquiry or trial, section 516A,"

(7) in item (20), the word "perishable" shall be omitted,

(8) after item (20) the following items shall be added, namely —

"(21) Power to require affidavit in support of application, section 539A,

(22) Power to make local inspection, section 539B";

(ii) under Head II (*Ordinary Powers of a Magistrate of the Second Class*)—

(1) for item (3) the following item shall be substituted, namely —

"(3) Power to postpone issue of process and to inquire into a case or direct investigation, section 202"

(2) item (4) shall be omitted,

(iii) under Head III (*Ordinary Powers of a Magistrate of the First Class*)—

(1) in item (6), for the figures "126" the figures and letter "126A" shall be substituted,

(2) between items (6) and (7) the following item shall be inserted, namely —

"(6a) Power to make orders as to local nuisances, section 133;"

(3) between items (7) and (8), the following items shall be inserted, namely —

"(7a) Power to record statements and confessions during a police investigation, section 164;

(7aa) Power to authorise detention of a person in the custody of the police during a police investigation, section 167,

(7b) Power to hold inquests, section 174,"

(4) After item (9) the following item shall be inserted, namely :—

"(9a) Power to tender pardon to accomplice during inquiry into case by himself, section 337,"

(5) after item (12) the following items shall be inserted, namely :—

"(12a) Power to require fresh security, section 514A,

(12b) Power to re-call case made over by him to another Magistrate, section 528 (4)"

(6) after item (13) the following item shall be added, namely —

"(14) Power to order released convicts to notify residence, section 565,"

(iv) in Head IV (*Ordinary Powers of a Sub divisional Magistrate*)—

(1) in the head note, after the words "Sub divisional Magistrate" the words "*appointed under section 13*" *shall be inserted*,

(2) the following items shall be omitted, namely —

"(4) Power to make orders as to local nuisances, section 133,"

"(10) Power to hold inquest, section 174,"

"(20) Power to order released convicts to notify residence, section 565,"

(v) in Head V (*Ordinary Powers of a District Magistrate*)—

(1) after item (1) the following item shall be inserted, namely —

"(1a) Power to try juvenile offenders, section 29A,"

(2) after item (6) the following item shall be inserted, namely —

"(6a) Power to order preliminary investigation by police-officer not below the rank of Inspector in certain cases, section 196B,"

(3) after item (7) the following item shall be inserted, namely —

"(7a) Power to tender pardon to accomplice at any stage of a case, section 337,"

(4) in item (9), after the word "for" the words "keeping the peace or" shall be inserted,

(5) after item (9) the following item shall be inserted, namely —

"(9a) Power to hear appeals from orders of Magistrates refusing to accept or rejecting sureties, section 406A,"

(6) in item (12), for the figures "136" the figures "137" and, in item (13), for the figures "137" the figures "136" shall be substituted, and items (12) and (13) shall be re numbered (13) and (12), respectively

161 In Schedule IV to the said Code — **Amendment of Schedule IV, Code of Criminal Procedure, 1898**

(i) from the list of powers with which a Magistrate of the first class may be invested by the Local Government, the following shall be omitted, namely —

"(3) Power to make orders as to local nuisances, section 133,"

"(6) Power to hold inquests, section 174,"

"(14) Power to order released convicts to notify residence, section 565,"

(ii) from the list of powers with which a Magistrate of the first class may be invested by the District Magistrate item (3) namely "Power to hold inquests, section 174" shall be omitted

(iii) in the list of powers with which a Magistrate of the second class may be invested by the Local Government—

between items (3) and (4) the following items shall be inserted, namely —

"(3a) Power to record statements and confessions during a police investigation section 164

(3b) Power to authorise detention of a person in the custody of the police during a police investigation section 167

(iv) from the list of powers with which a Magistrate of the third class may be invested by the Local Government the following shall be omitted, namely —

"(2) Power to make orders under section 144,"

"(6) Power to commit for trial, section 206,"

and from the list of powers with which such Magistrates may be invested by the District Magistrate, the following shall be omitted, namely —

"(2) Power to make orders under section 144"

Amendment of Schedule V, Code of Criminal Procedure, 1898

162. In Schedule V to the said Code,—

(i) in Form VI—

(*a*) in the ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS, for the words "Proclamation was duly issued" the words "Proclamation has been or is being duly issued" shall be substituted, and the words "and he has failed to appear" shall be omitted,

(*b*) in the ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED, for the words "Proclamation was duly issued" the words "Proclamation has been or is being duly issued" shall be substituted,

(*c*) in the ORDER AUTHORISING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR, for the words "Proclamation was duly issued" the words "Proclamation has been or is being duly issued" shall be substituted, and the words 'but he has not appeared' shall be omitted,

(ii) in Forms X and XI, after the words "for the term of ," wherever they occur, the words "or until the completion of the inquiry in the matter of now pending in the Court of ," and after the words "said term," wherever they occur, the words "or until the completion of the said inquiry" shall be inserted,

(iii) in Form XXX—

(*a*) in the heading, for the word "DISTRESS" the words "ATTACHMENT AND SALE" shall be substituted,

(*b*) after the words "dismissed as" the words "false and" shall be inserted, and

(*c*) the words "and cannot be recovered by distress of the moveable property of the said (name of complainant)" shall be omitted,

(iv) in Form XXXVII, after the figures "386" the figure, letter and brackets "(1) (*a*)" shall be inserted,

(v) in each of Forms XXXVII and XLI, the following amendments shall be made, namely —

(*a*) in the heading, for the word "DISTRESS" the word "ATTACHMENT" shall be substituted,

(*b*) for the words "make distress by seizure of any" the words "attach any" shall be substituted,

(*c*) for the words "such distress" the words "such attachment" shall be substituted, and

(*d*) for the words "property distrained" the words "property attached" shall be substituted,

(vi) after Form XXXVII the following Form shall be inserted, namely —

"XXXVIIA —BOND FOR APPEARANCE OF OFFENDER RELEASED PENDING REALISATION OF FINE

(*See section 388*)

WHEREAS I, (*name*), inhabitant of (*place*), have been sentenced to pay a fine of rupees and in default of payment thereof to undergo imprisonment for , and whereas the Court has been pleased to order my release until the day of on condition of my executing a bond for my appearance on that day,

I hereby bind myself to appear before the Court of at o clock on the said day of next, and, in case of making default herein, I bind myself to forfeit to His Majesty the King, Emperor of India the sum of Rupees

Dated this day of 19

(*Signature*)

Where a bond with sureties is to be executed, add—

We do hereby declare ourselves sureties for the above-named that he will appear before the Court of on the day of next, and, in case of his making default therein, we bind ourselves jointly and severally to forfeit to His Majesty the King Emperor of India, the sum of Rupees .

(*Signature*)'

163 [*Repeal of section 31 Court fees Act, 1870*] *Repealed by s 2 and Sch of the Repealing Act 1927 (12 of 1927)*

164 This Act shall come into force on such [1]date as the Governor General in Council may by notification in the Gazette of India, appoint Commencement

1 This Act was brought into force from 1st September 1923—*vide* Notification No F 222 23 1, dated the 10th August 1923 Gor R and O Vol V, p 337

ACT No XIX OF 1923 [1]

[*2nd April, 1923*]

An Act to consolidate and amend the law in British India relating to official secrets

WHEREAS the law in British India relating to official secrets is at present contained in two Acts of the Governor General in Council, namely the Indian Official Secrets Act, 1889, and the Indian Official Secrets (Amendment) Act 1904, and one Statute of Parliament, namely, the Official Secrets Act, 1911, and
XV of 1889
V of 1904
1 & 2 Geo V c 28

WHEREAS the Official Secrets Act 1911, has been amended by the Official Secrets Act 1920 which Statute applies to the United Kingdom and to certain British possessions, but not to British India, and
1 & 2 Geo V c 28
10 & 11 Geo V c 75

WHEREAS it is expedient that the law relating to official secrets in British India should be consolidated and amended,

It is hereby enacted as follows —

Short title, extent and application.

1 (*1*) This Act may be called the Indian Official Secrets Act 1923

(*2*) It extends[2] to the whole of British India, and applies also—

(*a*) to all subjects of His Majesty and servants of the Crown within the dominions of Princes and States in India in alliance with His Majesty, and

(*b*) to all Indian subjects of His Majesty without and beyond British India

Definitions.

2 In this Act unless there is anything repugnant in the subject or context,—

(*1*) any reference to a place belonging to His Majesty includes a place occupied by any department of the Government, whether the place is or is not actually vested in His Majesty,

(*2*) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document or information itself or the substance, effect or

[1] For Statement of Objects and Reasons *see* Gazette of India 1922 Pt V, p 210 and for Report of Select Committee *see ibid* 1923, Pt. V p 61

[2] The Act has been extended to British Baluchistan by Chief Commissioner's Notification No 227-J dated 15th May 1923 *see* p 244 of Baluchistan Local Rules and Orders

description thereof only be communicated or received, expressions referring to obtaining or retaining any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note, or document, and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document,

(3) "document" includes part of a document,

(4) "model" includes design, pattern and specimen,

(5) "munitions of war" includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or mine intended or adopted for use in war, and any other article, material, or device, whether actual or proposed, intended for such use,

(6) "Office under His Majesty" includes any office or employment in or under any department of the Government or of the Government of the United Kingdom or of any British possession,

(7) "photograph" includes an undeveloped film or plate,

(8) "prohibited place" means—

(a) any work of defence arsenal, naval, military or air force establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of, His Majesty, any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any munitions of war, or any sketches plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war,

(b) any place not belonging to His Majesty where any munitions of war or any sketches models, plans or documents relating thereto, are being made, repaired,

gotten or stored under contract with, or with any person on behalf of, His Majesty, or otherwise on behalf of His Majesty;

(c) any place belonging to or used for the purpose of His Majesty which is for the time being declared by the Governor General in Council, by notification in the *Gazette of India*, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;

(d) any railway, road, way or channel or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purposes of a public character, or any place where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired or stored otherwise than on behalf of His Majesty, which is for the time being declared by the Governor General in Council, by notification in the *Gazette of India*, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;

(9) "sketch" includes any photograph or other mode of representing any place or thing; and

(10) "Superintendent of Police" includes any police officer of a like or superior rank and any person upon whom the powers of a Superintendent of Police are for the purposes of this Act conferred by the Governor General in Council or by any Local Government.

3 (1) If any person for any purpose prejudicial to the safety or interests of the State— **Penalties for spying**

(a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or

(b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy, or

(c) obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan model article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy,

he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory dockyard, camp ship or aircraft or otherwise in relation to the naval, military or air force affairs of His Majesty or in relation to any secret official code, to fourteen years and in other cases to three years

(2) On a prosecution for an offence punishable under this section with imprisonment for a term which may extend to fourteen years, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State and if any sketch plan model article note document, or information relating to or used in any prohibited place, or relating to anything in such a place or any secret official code or pass word is made, obtained, collected, recorded published or communicated by any person other than a person acting under lawful authority and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the State, such sketch plan, model, article, note, document or information shall be presumed to have been made obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State

Communications with foreign agents to be evidence of commission of certain offences

4 (1) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or without British India, shall be relevant for the purpose of proving that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be, or is intended to be directly or indirectly, useful to an enemy

(2) For the purpose of this section, but without prejudice to the generality of the foregoing provision,—

(a) a person may be presumed to have been in communication with a foreign agent if—

(i) he has, either within or without British India, visited the address of a foreign agent or consorted or associated with a foreign agent or

(ii) either within or without British India the name or address of or any other information regarding, a foreign agent has been found in his possession, or has been obtained by him from any other person,

(b) the expression foreign agent includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him of being or having been employed by a foreign power, either directly or indirectly, for the purpose of committing an act, either within or without British India prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without British India, committed or attempted to commit such an act in the interests of a foreign power,

(c) any address whether within or without British India in respect of which it appears that there are reasonable grounds for suspecting it of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications or at which he carries on any business, may be presumed to be the address of a foreign agent, and communications addressed to such an address to be communications with a foreign agent

Wrongful communication, etc., of information.

5. (1) If any person having in his possession or control any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under His Majesty, or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under His Majesty, or as a person who holds or has held a contract made on behalf of His Majesty, or as a person who is or has been employed under a person who holds or has held such an office or contract—

(a) wilfully communicates the code or pass word, sketch, plan, model, article, note, document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the State, his duty to communicate it; or

(b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the State, or

(c) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof, or

(d) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code or pass word or information

he shall be guilty of an offence under this section

(2) If any person voluntarily receives any secret official code [illegible] word or any sketch, plan, model, article, note, document or [illegible] knowing or having reasonable ground to believe, at the time [illegible] receives it, that the code, pass word, sketch, plan model, [illegible] document or information is communicated in contravention [illegible] he shall be guilty of an offence under this section

(3) If any person having in his possession or control any [illegible] model, article, note, document or information which relates [illegible]

of war, communicates it, directly or indirectly, to any foreign power or in any other manner prejudicial to the safety or interests of the State, he shall be guilty of an offence under this section

(*4*) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both

Unauthorised use of uniforms, falsification of reports, forgery, personation, and false documents

6 (*1*) If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety of the State—

(*a*) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform, or

(*b*) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission, or

(*c*) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate licence, or other document of a similar character (hereinafter in this section referred to as an official document) or knowingly uses or has in his possession any such forged, altered, or irregular official document, or

(*d*) personates, or falsely represents himself to be, a person holding, or in the employment of a person holding, office under His Majesty, or to be or not to be a person to whom an official document or secret official code or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code or pass word, whether for himself or any other person, knowingly makes any false statement, or

(*e*) uses or has in his possession or under his control, without the authority of the department of the Government or the authority concerned, any die, seal or stamp of or belonging to, or used, made or provided by, any department of the Government, or by any diplomatic, naval, military or air force authority appointed by or acting under the authority

of His Majesty, or any die, seal or stamp so nearly resembling any such die, seal or stamp as to be calculated to *deceive, or counterfeits any such die, seal or stamp, or* knowingly uses, or has in his possession or under his control, any such counterfeited die, seal or stamp;

he shall be guilty of an offence under this section

(2) If any person for any purpose prejudicial to the safety of the State—

(a) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with any directions issued by any department of the Government or any person authorised by such department with regard to the return or disposal thereof; or

(b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code or pass word issued for the use of some person other than himself, or, on obtaining possession of any official document by finding or otherwise, wilfully fails to restore it to the person or authority by whom or for whose use it was issued, or to a police officer; or

(c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid,

he shall be guilty of an offence under this section

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both

(4) The provisions of sub section (2) of section 3 shall apply, for the purpose of proving a purpose prejudicial to the safety of the State, to any prosecution for an offence under this section relating to the naval, military or air force affairs of His Majesty, or to any secret official code in like manner as they apply, for the purpose of proving a purpose prejudicial to the safety or interests of the State, to prosecutions for offences punishable under that section with imprisonment for a term which may extend to fourteen years

Interfering with officers of the police or members of His Majesty's forces

7. (*1*) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police officer, or any member of His Majesty's forces engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place

(*2*) If any person acts in contravention of the provisions of this section, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both

Duty of giving information as to commission of offences

8. (*1*) It shall be the duty of every person to give on demand to a Superintendent of Police, or other police officer not below the rank of Inspector, empowered by an Inspector-General or Commissioner of Police in this behalf, or to any member of His Majesty's forces engaged on guard, sentry, patrol or other similar duty, any information in his power relating to an offence or suspected offence under section 3 or under section 3 read with section 9 and, if so required, and upon tender of his reasonable expenses to attend at such reasonable time and place as may be specified for the purpose of furnishing such information

(*2*) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both

Attempts, incitements etc

9. Any person who attempts to commit or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to be proceeded against in the same manner as if he had committed such offence

Penalty for harbouring spies

10. (*1*) If any person knowingly harbours any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or who has committed an offence under section 3 or under section 3 read with section 9 or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, he shall be guilty of an offence under this section

(*2*) It shall be the duty of every person having harboured any such person as aforesaid or permitted to meet or assemble in any premises in his occupation or under his control any such persons as aforesaid, to give on demand to a Superintendent of Police or other police officer not below the rank of Inspector empowered by an Inspector-General or Commissioner of Police in this behalf, any information in his power relating to any such person or persons, and if any person fails to give any such information he shall be guilty of an offence under this section

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both

11. (1) If a Presidency Magistrate, Magistrate of the first class or Sub divisional Magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search warrant authorising any police officer named therein, not being below the rank of an officer in charge of a police station, to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan model, article, note or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed **Search warrants**

(2) Where it appears to a police officer, not being below the rank of Superintendent that the case is one of great emergency, and that in the interests of the State immediate action is necessary, he may by a written order under his hand give to any police officer the like authority as may be given by the warrant of a Magistrate under this section

(3) Where action has been taken by a police officer under sub section (2) he shall, as soon as may be report such action in a Presidency town to the Chief Presidency Magistrate, and outside such town to the District or Sub divisional Magistrate

12 Notwithstanding anything in the Code of Criminal Procedure, 1898 — **Power to arrest**

of 1898

(a) an offence punishable under section 3 or under section 3 read with section 9 with imprisonment for a term which may extend to fourteen years shall be a cognizable and non bailable offence

(b) an offence under clause (a) of sub section (1) of section 6 shall be a cognizable and bailable offence and

(c) every other offence under this Act shall be a non cognizable and bailable offence, in respect of which a warrant of arrest shall ordinarily issue in the first instance

intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person,

and whoever with such intent or knowledge imports into British India from any State in India any such girl who has with the like intent or knowledge been imported into India, whether by himself or by another person,

shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine "

Amendment of Schedule II, Code of Criminal Procedure, 1898

4. In the Second Schedule to the Code of Criminal Procedure, 1898 after the entry relating to section 366 of the Indian Penal Code the following entries shall be inserted, namely — V of 1898

366A	Procuration of minor girl.	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for ten years and fine	Court of Session
366B	Importation of girl from foreign country	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for ten years and fine	Court of Session

THE INDIAN MERCHANT SHIPPING ACT, 1923

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ACT No. XXI OF 1923[1]

[*2nd April, 1923.*]

An Act to consolidate certain enactments relating to Merchant Shipping.

WHEREAS it is expedient to consolidate certain enactments relating to Merchant Shipping; It is hereby enacted as follows:—

PART I

INTRODUCTORY

1. (*1*) This Act may be called the Indian Merchant Shipping Act, 1923. Short title and commencement

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions

(1) "effects" includes clothes and documents;

(2) "foreign-going ship" means a ship, not being a home-trade ship, employed in trading between any port in British India and any other port or place;

(3) "home trade ship" means a ship employed in trading between any ports in British India or between any port in British India and any port or place on the continent of India or in the Straits Settlements, or in the Island of Ceylon;

(4) "master" includes every person (except a pilot or harbour master) having command or charge of a ship;

(5) "Merchant Shipping Acts" means the Merchant Shipping Acts, 1894—1921;

(6) "passenger" includes any person carried in a ship other than the master and crew and the owner, his family and servants;

(7) "prescribed" means prescribed by rules made under this Act;

[1] For Statement of Objects and Reasons *see* Gazette of India, 1922, Pt. V, p. 166.

[2] This Act was brought into force from 1st May 1923, *vide* Notification No. 2325 dated the 28th April, 1923, Gen. R. and O., Vol. V, p. 439.

(8) 'seaman' means every person (except masters, pilots and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship;

(9) 'steam ship' means every description of vessel used in navigation and propelled wholly or in part by the agency of steam; and

(10) 'wages' includes emoluments.

Application of Act to ships propelled by electricity or mechanical power.

3. The provisions of this Act applying to steam ships shall apply to ships propelled by electricity or other mechanical power, with such modifications as the Governor General in Council may, by notification in the Gazette of India, direct for the purpose of adaptation.

Exemption of public ships.

4. This Act shall not, except where specially provided, apply to ships belonging to His Majesty or the Government, or to ships belonging to any foreign Prince or State and employed otherwise than for profit in the public service of that foreign Prince or State.

4-A

PART II

MASTERS AND SEAMEN

Application.

5. (1) The provisions of this Part relating to the requirement of masters and mates to hold certificates of competency shall not apply to ships registered under the Indian Registration of Ships Act, 1841, and trading between ports in India and the coast of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen. X of 1841.

(2) Save as hereinbefore provided in this section, this Part shall, unless there is anything repugnant in the subject or context, apply to British ships and to the owners, masters and crews thereof as follows:—

(a) The provisions relating to licences to supply seamen, engagement of the crew, agreements with lascars, discharge of seamen, payment of wages, advance and allotment of wages, mode of recovering wages, and recovery of expenses of relief of distressed seamen, shall apply to every sea going ship in

(aa) British India.

(b) The provisions relating to the property of deceased seamen and apprentices shall apply to every sea going ship, not being a ship registered in the United Kingdom or a ship employed

(Part II.—Masters and Seamen.)

in trading or going from or to any port in the United Kingdom, where the crew are discharged or the final port of destination of the ship is in British India.

(c) The provisions relating to the rights of seamen in respect of wages, to the return of distressed seamen, to the provisions and health of seamen, to the power of seamen to make complaints, to the protection of seamen from imposition and to discipline shall apply to sea going ships registered in British India, while such ships are in British India.

(d) The provisions relating to official logs shall apply to sea going ships registered in British India, and to any sea-going ship, not being a ship registered in the United Kingdom, employed in trading or going between any port in British India and any port not situated in the part of His Majesty's dominions in which the ship is registered other than in the United Kingdom.

(3) The provisions of this Part, in so far as they are adaptations of the provisions of Part II of the [1]Merchant Shipping Act, 1894, and are not local in their application, have, by virtue of section 264 of the Merchant Shipping Act, 1894, effect throughout His Majesty's dominions and in all places where His Majesty has jurisdiction, as well as in British India. 57 and 58 Vict., c. 60

Shipping Offices

6. (1) Shipping offices shall be maintained at every port in British India where there is a shipping office at the commencement of this Act, and may be established and maintained at such other ports as the Governor General in Council may deem necessary.

(2) For every such office there shall be a shipping-master with such deputy shipping-masters, clerks and servants (if any) as the ~~Local Government~~ G. G. in Council may consider necessary.

(3) Shipping masters and deputy shipping masters shall be appointed by the ~~Local Government~~ G. G. in Council, and shall ~~respectively~~ be subject to ~~the~~ [his] control or the control of that Government or of any intermediate authority which he may appoint.

(4) Every act done by or before a deputy shipping master shall have the same effect as if done by or before a shipping master.

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1 Collection of Statutes relating to India, Vol. II.

(Part II.—Masters and Seamen.)

(3) Every British home trade steam ship when going to sea from any place in British India and every foreign steam ship carrying passengers between places in British India shall be provided with engineers duly certificated according to the following scale, namely:—

(a) if the ship is of fifty nominal horse power or upwards, with at least one engineer who is a first class or second class engineer duly certificated;

(b) if the ship is of less than fifty nominal horse power, with at least one engineer who is a first class or second class engineer or an engine driver duly certificated.

(4) Nothing in this section which relates to engineers or engine drivers shall apply to any steam ship to which the provisions of the Inland Steam-vessels Act, 1917, apply. I of 1917.

When officer deemed duly certificated.

12. An officer shall not be deemed to be duly certificated under this Act unless he holds a certificate of a grade appropriate to his station in the ship or of a higher grade—

(a) granted in accordance with the Merchant Shipping Acts or any Act repealed thereby or this Act or any Act repealed hereby; or

(b) issued by a competent authority in any British possession, the certificates of which have been declared by Order in Council made under section 102 of the [1]Merchant Shipping Act, 1894, to have the same force as if they were granted under that Act. 57 and 58 Vict., c. 60.

Penalty for serving as master, mate or engineer without a certificate.

13. Any person who—

(a) having been engaged as one of the officers mentioned in section 11, goes to sea as such officer without being duly certificated, or

(b) employs a person as an officer in contravention of section 11, without ascertaining that the person so serving is duly certificated,

shall be liable for each such offence to a fine which may extend to five hundred rupees.

Grades of certificate of competency.

14. (1) Certificates of competency shall be granted in accordance with this Act for each of the following grades, namely:—

Master of foreign going ship:

First mate of foreign going ship:

[1] Collection of Statutes relating to India, Vol. II.

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Second mate of foreign going ship
Master of a home trade ship
Mate of a home trade ship
First class engineer
Second class engineer
Engine driver

(2) A certificate of competency for a foreign going ship shall be deemed to be of a higher grade than the corresponding certificate for a home trade ship and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last mentioned ship but no certificate for a home trade ship shall entitle the holder to go to sea as master or mate of a foreign going ship

Examinations for certificates

15 The ~~Local Government~~ G. G. in Council or a person duly authorised by the Local Government in this behalf shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency under this Act

Grant of certificates on passing examinations

16 The ~~Local Government~~ G. G. in Council or such authorised person shall deliver to every applicant who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence of his sobriety experience and ability and general good conduct on board ship such a certificate of competency as the case requires

Provided that the Local Government may in any case in which it has reason to believe that the report has been unduly made require before granting a certificate a re examination of the applicant or a further inquiry into his testimonials and character

Certificates of service of Naval Officers

17 (1) A person who has attained the rank of Lieutenant in His Majesty s Navy or in the Royal Indian Marine shall be entitled to a certificate of service as the master of a foreign going ship without examination

(2) A person who has attained the rank of engineer or assistant engineer in His Majesty s Navy or the Royal Indian Marine shall be entitled without examination if an engineer to a certificate of service as first class engineer and if an assistant engineer to a certificate of service as second class engineer

(3) A certificate of service shall differ in form from a certificate of competency and shall contain the name and rank of the person to whom it is delivered and the ~~Local Government~~ G. G. in Council shall deliver a certificate of service to any person who proves himself to be entitled thereto

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(4) The provisions of this Act (including the penal provisions) shall apply in the case of a certificate of service as they apply in the case of a certificate of competency

Form of certificates

18 Every certificate of competency granted under this Act shall be in the prescribed form and shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept by the ~~Local Government~~ and recorded in the prescribed manner

Record of orders affecting certificates

19 A note of all orders made for suspending, cancelling, altering or otherwise affecting any certificate of competency, in pursuance of the powers contained in this Act, shall be entered on the copy of the certificate kept by the ~~Local Government~~

Loss of certificate

20 Whenever a master, mate, engineer or engine driver proves to the satisfaction of the ~~Local Government~~ by ~~or under the authority of which his certificate was granted~~ that he has, without fault on his part, lost or been deprived of a certificate already granted to him, the ~~Local Government~~ shall cause a copy of the certificate to which by the record kept in accordance with this Act he appears to be entitled to be granted to him and such copy shall have all the effect of the original

Power to make rules as to grant of certificates of competency

21 (1) The ~~Local Government~~, ~~with the previous sanction of the Governor General in Council~~, may make rules[1] to regulate the granting of certificates of competency under this Act, and may, by such rules,—

(a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, mates, engineers or engine drivers,

(b) prescribe the qualifications to be respectively required of persons desirous of obtaining certificates of competency as masters first mates second mates first class engineers, second class engineers, or engine drivers,

(c) fix the fees to be paid by applicants for examination, and

(d) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate to be kept by the ~~Local Government~~ is to be recorded

Production of certificates of competency to shipping master

22 (1) The master of a foreign going ship—

(a) on signing the agreement with his crew shall produce to the shipping master before whom the same is signed the certificates of competency which the master, mate and engineers of the ship are by this Act required to hold and

[1] For rules made by the Government of Bengal see Calcutta Gazette 1925 Pt I p 961

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(b) in the case of a running agreement shall, also, before the second and every subsequent voyage, produce to the shipping master the certificate of competency of any mate or engineer then first engaged by him who is required by this Act to hold a certificate

(2) The master or owner of every home trade ship of more than three hundred tons burden shall produce to some shipping master in British India, within twenty one days after the thirtieth of June and the thirty-first of December in every year or (if the ship is not at any port in British India within twenty-one days after either the thirtieth of June or the thirty first day of December in any year) within forty eight hours after her next arrival at any port in British India, the certificates of competency which the master, mates and engineers of the ship are by this Act required to hold

(3) Upon the production of the certificates of competency, the shipping master shall, if the certificates are such as the master, mates and engineers of the ship ought to hold, give to the master a certificate to the effect that the proper certificates of competency have been so produced

(4) The master shall before proceeding to sea, produce the certificate given to him by the shipping master to the Customs collector, or, if there is no Customs collector to the officer whose duty it is to grant a port clearance

(5) No officer of Customs or other officer shall clear any such ship outwards without such production, and, if any ship attempts to go to sea without a clearance, any such officer may detain her until the certificate is produced

Apprenticeships to the Sea Service

23 (1) ~~Subject to the provisions of the Apprentices Act, 1850~~, any boy may be bound as an apprentice in the sea service to the owner of any ship registered in British India to be employed in any such ship, being the property of such person the master of which is a British subject and while so employed to be taught the craft and duty of a seaman and the provisions of the ~~said Act shall save as hereinafter provided in this section~~, apply accordingly Application of Act XIX of 1850

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(2) The master of any ship in which any apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound shall be deemed to be the agent of such party for the purposes of the said Act.

(3) The duties of the Magistrate under that Act in respect of the contract of apprenticeship and of the endorsements thereon of any assignment, alteration or cancellation of the contract and of the certification of the offer of the continuation of the contract by the executors or administrators of a deceased master of the apprentice shall be performed by the shipping master of the port where the apprentice is to begin his service.

Licences to supply Seamen.

Licences to supply seamen.

24. (1) The Local Government or any person duly authorised by the Local Government in this behalf may grant to such persons as may be deemed fit licences to engage or supply seamen for merchant ships in British India.

(2) Any such licence shall continue for such period, and may be granted and revoked on such terms and conditions as the Local Government thinks proper.

Penalties for engaging seamen without licence.

25. (1) A person shall not engage or supply a seaman to be entered on board any ship in British India unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bonâ fide* the servant and in the constant employ of the owner, or is a shipping master.

(2) A person shall not employ, for the purpose of engaging or supplying a seaman to be entered on board any ship in British India, any person unless that person either holds a licence under this Act for the purpose or is the owner or master or mate of the ship, or is *bonâ fide* the servant and in the constant employment of the owner, or is a shipping master.

(3) A person shall not receive or accept to be entered on board any ship any seaman if that person knows that the seaman has been engaged or supplied in contravention of this section.

(4) If a person acts in contravention of this section, he shall for each seaman in respect of whom an offence is committed be liable to a fine which may extend to one hundred rupees, and if a licensed person shall forfeit his licence.

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Penalty for receiving remuneration from seamen for shipping them

26. (*1*) A person shall not demand or receive, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever for providing him with employment other than the fees authorised by this Act

(*2*) If a person acts in contravention of this section, he shall for each such offence be liable to a fine of fifty rupees, and, if a licensed person, shall forfeit his licence

Engagement of Seamen

Agreements with crew.

27 (*1*) The master of every British ship except home trade ships of a burden not exceeding three hundred tons, shall enter into an agreement (in this Act called the agreement with the crew) in accordance with this Act with every seaman whom he engages in, and carries to sea as one of his crew from, any port, in British India

(*2*) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Act, the master shall for each offence be liable to a fine which may extend to fifty rupees

Form and contents of the agreement

28 (*1*) An agreement with the crew shall be in a form sanctioned by the Governor General in Council and shall be dated at the time of the first signature thereof and shall be signed by the master before any seaman signs the same

(*2*) The agreement with the crew shall contain as terms thereof the following particulars, namely —

(*a*) either the nature and, as far as practicable, the duration of the intended voyage or engagement or the maximum period of the voyage or engagement and the places or parts of the world if any to which the voyage or engagement is not to extend

(*b*) the number and description of the crew specifying how many are engaged as sailors,

(*c*) the time at which each seaman is to be on board or to begin work,

(*d*) the capacity in which each seaman is to serve,

(*e*) the amount of wages which each seaman is to receive,

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(*f*) a scale of the provisions which are to be furnished to each seaman, such scale being, in the case of lascars or other native seamen, not less than a scale to be fixed by the ~~Local Government with the previous sanction of the Governor General in Council~~ and published in the ~~local official~~ Gazette;

(*g*) any regulations as to conduct on board and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Governor General in Council as regulations proper to be adopted, and which the parties agree to adopt; and

(*h*) where it is agreed that the services of any lascar or other native seaman shall end at any port not in British India, a stipulation to provide him either fit employment on board some other ship bound to the port at which he was shipped or to such other port in British India as may be agreed on, or a passage to some port in British India free of charge or on such other terms as may be agreed upon, and in this provision the word " seaman " shall include also any native of British India carried to sea from any port in British India as one of the crew:

Provided that any such stipulation shall be signed by the owner of the ship or by the master on his behalf.

(*3*) The agreement with the crew shall be so framed as to admit of such stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping) as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

(*4*) If a master enters into an agreement with a lascar or other native seaman for a scale of provisions less than the scale fixed under this section, he shall be liable to a fine which may extend to two hundred rupees.

Engagement of single seaman where agreement is made out of British India.

29. If the master of a ship registered at a port outside British India has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged and engages a single seaman not being a lascar or other native seaman in any port in British India, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

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30. (1) The following provisions shall have effect with respect to the agreements with the crew made in British India in the case of foreign-going ships registered either within or without British India, namely:— Special provisions with regard to agreements with crew of foreign going ships

(a) The agreement shall, subject to the provisions of this Act as to substitutes, be signed by each seaman in the presence of a shipping-master.

(b) The shipping-master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.

(c) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping-master, and the other part shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.

(d) When a substitute is engaged in the place of a seaman who has duly signed the agreement and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, if practicable, be made before a shipping-master, and if not practicable the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness, who shall attest the signature

(e) The agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made are in this Act referred to as running agreements

(f) Save as otherwise provided in this section, running agreements shall not extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of

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the ship at her port of destination in British India after such date or the discharge of cargo consequent upon that arrival

(g) On every return to a port in British India before the final termination of a running agreement, the master shall discharge or engage before the shipping master at such port any seaman whom he is required by law so to discharge or engage, and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if the master wilfully makes a false statement in any such endorsement he shall for each offence be liable to a fine which may extend to two hundred rupees

(h) The master shall deliver the running agreement so endorsed to the shipping-master, and the shipping master shall, if the provisions of this Act relating to agreements have been complied with sign the endorsement and return the agreement to the master

(2) In the case of a ship—

(a) registered in British India, or

(b) registered in the United Kingdom but not employed in trading with any port in the United Kingdom,

a running agreement may be made to extend over two or more voyages so that it shall terminate either within six months from the date on which it was executed, or on the first arrival of the ship at her port of destination in British India after the expiration of that period, or on the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest

Provided that no such agreement shall continue in force if, after the expiration of such period of six months as aforesaid, the ship proceeds on a voyage from a port out of British India to any other such port which is not on the direct road or a customary route to her port of destination in British India

Provided, also, that every such agreement shall, in addition to any other particulars required by law, contain such stipulations for the discharge of the crew and payment of their wages, for securing their return to the port at which they were shipped or to some other port in

British India, and for other purposes on the termination of the agreement at a port out of British India under the foregoing proviso, as the Governor General in Council may direct.

31. (*1*) When a running agreement has been made with the crew of a foreign going ship and the ship arrives after the next following thirtieth day of June or thirty first day of December, as the case may be, or after the expiration of a period of six months from the date on which it was executed at a port of destination in British India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping master, renew the agreement with the crew, or may be required by the shipping-master so to renew the agreement for the voyage from such port of destination to the port in British India at which the crew have agreed to be discharged. Renewal of running agreements in certain cases.

(*2*) If the master of the ship is required by the shipping master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of this Act.

32. The following provisions shall have effect with respect to the agreements with the crew of home trade ships for which an agreement with the crew is required under this Act, namely:— Special provisions as to agreements with crew of home trade ship over three hundred tons burden.

(*a*) Agreements may be made either for service in a particular ship or for service in two or more ships belonging to the same owner, but, in the latter case, the names of the ships and the nature of the ships and the nature of the service shall be specified in the agreement.

(*b*) Crews or single seamen may, if the master thinks fit, be engaged before a shipping master in the same manner as they are required to be engaged for service in foreign going ships, but, if the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature.

the ship at her port of destination in British India after such date, or the discharge of cargo consequent upon that arrival.

(g) On every return to a port in British India before the final termination of a running agreement, the master shall discharge or engage before the shipping-master at such port any seaman whom he is required by law so to discharge or engage, and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if the master wilfully makes a false statement in any such endorsement, he shall for each offence be liable to a fine which may extend to two hundred rupees.

(h) The master shall deliver the running agreement so endorsed to the shipping-master, and the shipping-master shall, if the provisions of this Act relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

(2) In the case of a ship—

(a) registered in British India, or

(b) registered in the United Kingdom but not employed in trading with any port in the United Kingdom,

a running agreement may be made to extend over two or more voyages so that it shall terminate either within six months from the date on which it was executed or on the first arrival of the ship at her port of destination in British India after the expiration of that period, or on the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest:

Provided that no such agreement shall continue in force if, after the expiration of such period of six months as aforesaid, the ship proceeds on a voyage from a port out of British India to any other such port which is not on the direct road or a customary route to her port of destination in British India:

Provided, also, that every such agreement shall, in addition to any other particulars required by law, contain such stipulations for the discharge of the crew and payment of their wages, for securing their return to the port at which they were shipped or to some other port in

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go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced.

(4) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in British India, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping master at the place, and such shipping master shall thereupon give to the master a certificate of such delivery, and no officer of Customs or other officer shall clear any foreign-going ship inwards without the production of such certificate.

(5) Any master who fails without reasonable cause so to deliver the agreement with the crew shall be liable for each offence to a fine which may extend to fifty rupees.

35. (1) The master or owner of a home-trade ship of more than three hundred tons burden shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the ship is not at any port in British India within twenty-one days after either the thirtieth day of June or the thirty-first day of December) within forty-eight hours of her next arrival at a port in British India, deliver or transmit to a shipping master in British India every agreement made within the six months next preceding such days respectively. Certificate as to agreement with crew of home-trade ship.

(2) The shipping master on receiving such agreement shall give the master or owner of the ship a certificate to that effect, and no officer of Customs or other officer authorised to grant a port-clearance shall grant a clearance for any such ship without a production of the certificate, and if any such ship attempts to go to sea without such clearance, any such officer may detain her until the certificate is produced.

(3) Any master or owner who fails without reasonable cause, to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

36. (1) The master shall at the commencement of every voyage or engagement cause a legible copy of the agreement and, if necessary, a translation thereof in a language understood by the majority of the crew (omitting the signatures) to be placed or posted up in such part of the ship as to be accessible to the crew. Copy of agreement to be made accessible to the crew.

(2) Any master who fails without reasonable cause to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

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Alteration in agreement with the crew

37 Every erasure, interlineation or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration by the written attestation (if made in His Majesty's dominions) of some shipping master Justice officer of Customs or other public functionary or (if made out of His Majesty's dominions) of a British consular officer or where there is no such officer, of two respectable British merchants

37-A.

Engagement of Lascars by Masters of Foreign Ships

Engagements between masters of foreign ships and lascars or native seamen

38 (1) When the master of a foreign ship being at any port in British India engages any lascar or other native seaman to proceed to any port out of British India he shall enter into an agreement with such seaman and the agreement shall be made before a shipping master in the manner provided by this Act for the making of agreements in the case of foreign going ships

(2) All the provisions of this Act respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same shall be applicable to the engagement of such seaman

(3) The master of the foreign ship shall give to the shipping master a bond with the security of some approved person resident in British India for an amount calculated at the rate of one hundred rupees for every such seaman and conditioned for the due performance of such agreement and stipulations and for the repayment to the Secretary of State for India in Council of all expenses which may be incurred by Government in respect of any such lascar or other native seaman who is discharged or left behind at any port out of British India and becomes distressed and is relieved under the provisions of the Merchant Shipping Acts

(4) The prescribed fees shall be payable in respect of every such engagement and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed under this Act

Penalty for contravention of sections 37B, 37C and 37D.

37F. If any young person is carried to sea to work in contravention of section 37B, section 37C or section 37D, the master of the ship shall for each such offence be liable to a fine which may extend to fifty rupees.

Penalty for false representation by parent or guardian.

37G. If any young person is engaged to work in any capacity in a ship in contravention of section 37B, section 37C or section 37D on a false representation by his parent or guardian that the young person is of an age at which such engagement is not in contravention of those sections, such parent or guardian shall be liable to a fine which may extend to fifty rupees.

Penalty for failure to produce medical certificate for inspection.

37H. If the master of any ship refuses or neglects to produce for inspection any medical certificate delivered to him under section 37D when required so to do by a shipping-master, he shall for each such offence be liable to a fine which may extend to fifty rupees.

Penalty for failure to keep or produce for inspection a register of young persons.

37I. If the master of a ship where there is no agreement with the crew fails to keep the register of young persons required to be kept by him under section 37E, or refuses or neglects to produce such register for inspection when required so to do by a shipping-master, he shall be liable to a fine which may extend to two hundred rupees.

Power to make rules.

37J. *(1)* The Governor General in Council may make rules prescribing—

(a) the conditions of employment of young persons, in any capacity, in school ships and training ships, and the authorities by whom and the manner in which the inspection of their work shall be carried out,

(b) the conditions of employment of young persons as trimmers or stokers in coasting ships,

(c) the authorities whose certificates of physical fitness shall be accepted for the purposes of section 37D, and

(d) the form of the register of young persons to be maintained in ships where there is no agreement with the crew.

(2) Rules under clause *(b)* shall be made after consultation with such organisations in British India as the Governor General in Council may consider to be most representative of the employers of seamen and of seamen."

5. After

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39 If any lascar or other native seaman is engaged by the master of any foreign ship otherwise than is allowed in section 38, the master shall be liable to a fine which may extend to one hundred rupees for every seaman so engaged Penalty for master of foreign ship illegally engaging native seamen

40 (1) The Local Government or such officer as it may appoint in his behalf may by order in writing prohibit any person from engaging in the territories subject to the said Government or in any specified portion of the territories any native of India to serve as a seaman on any ship specified in such order but in every case the reasons for the prohibition shall be stated in writing Power to prohibit engagement of native seamen

(2) Whoever wilfully disobeys any such prohibition shall be liable to imprisonment for a term which may extend to three months or to a fine which may extend to one thousand rupees or to both

41 (1) For the purpose of preventing seamen from being taken on board any British ship or lascars or native seamen being taken on board any foreign ship at any port in British India contrary to the provisions of this Act any shipping master or deputy shipping master may enter at any time on board any such ship upon which he has reason to believe that seamen or lascars or native seamen as the case may be have been shipped and may muster and examine the several seamen employed therein

(2) If any person obstructs a shipping master or deput[illegible] master in the exercise of his powers under sub section (1), [illegible] liable to a fine which may extend to one hundred rupees

Discharge of Seamen

42 (1) When a seaman serving in a British foreign[illegible] on the termination of his engagement discharged in B[illegible] shall whether the agreement with the crew be an agre[illegible] voyage or a running agreement be discharged in the [illegible] by this Act in the presence of a shipping master

(2) If the master or owner of the ship acts in co[illegible] section, he shall, for each offence be liable to a fin[illegible] to one hundred rupees

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(3) If the master or owner of a home-trade ship, of more than three hundred tons burden, so desires, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign going ship

Certificate of discharge and return of certificate to officer on discharge

43 (1) The master shall sign and give to a seaman discharged from his ship in British India, either on his discharge or on payment of his wages, a certificate of his discharge in a form sanctioned by the ~~Local Government~~ G.G. in Council specifying the period of his service and the time and place of his discharge

(2) If a master acts in contravention of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(3) The master shall also, upon the discharge of every certificated officer, whose certificate of competency has been delivered to and retained by him, return the certificate to the officer, and if, without reasonable cause, he fails so to do, he shall for each offence be liable to fine which may extend to two hundred rupees

43A

Payment of Wages

Master to deliver account of wages

44. (1) The master of every British ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Act a full and true account in a form sanctioned by the ~~Local Government~~ G.G. in Council of the seaman's wages and of all deductions to be made therefrom on any account whatever

(2) The said account shall be delivered—

(a) where the seaman is not discharged before the shipping-master, to the seaman himself not less than twenty four hours before his discharge or payment off, and

(b) where the seaman is to be discharged before a shipping-master, either to the seaman himself, at or before the time of his leaving the ship, or to the shipping master not less than twenty four hours before the discharge or payment off.

(3) If the master of a ship fails, without reasonable cause, to comply with this section, he shall for each offence be liable to a fine which may extend to fifty rupees

Deductions from wages of seamen.

45. (1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of this Act except in respect of a matter happening after the delivery

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(2) The master shall, during the voyage, enter the various matters in respect of which the deductions are made, with the amount of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to that payment

Payment of wages before shipping master

46 (1) Where a seaman is discharged before a shipping master in British India, he shall receive his wages through, or in the presence of, a shipping master unless a competent Court otherwise directs, and in such a case, if the master or owner of the ship pays his wages in British India in any other manner, he shall for each offence be liable to a fine which may extend to one hundred rupees

(2) If the master or owner of a home-trade ship so desires, the seamen of that ship may receive their wages in the same manner as seamen discharged from a foreign going ship

Time of payment of wages

47 (1) The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered or within five days after the seaman's discharge whichever first happens, and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one fourth part of the balance due to him

(2) If a master or owner fails without reasonable cause to make payment at that time he shall pay to the seaman a sum not exceeding the amount of two days pay for each of the days during which payment is delayed beyond the respective times but the sum payable shall not exceed ten days' double pay

(3) Any sum payable under this section may be recovered as wages

Settlement of wages

48 (1) Where a seaman is discharged and the settlement of his wages completed before a shipping master he shall sign in the presence of the shipping master a release in a form sanctioned by the ~~Local Government~~ G.G. in Council of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master or owner of the ship and attested by the shipping master

(2) The release so signed and attested shall be retained by the shipping master and shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement

(3) A copy of the release, certified under the hand of the shipping-master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims and shall have all the effect of the original of which it purports to be a copy.

(4) Where the settlement of a seaman's wages is by this Act required to be completed through, or in the presence of, a shipping master, no payment, receipt or settlement made otherwise than in accordance with this Act shall operate or be admitted as evidence of the release or satisfaction of any claim.

(5) Upon any payment being made by a master before a shipping master, the shipping master shall, if required, sign and give to the master a statement of the whole amount so paid, and this statement shall, as between the master and his employer, be admissible as evidence that the master has made the payments therein mentioned.

Decision of questions by shipping masters.

49. (1) Where any question of whatever nature and whatever the amount in dispute between a master or owner and any of his crew is raised before a shipping master, and both parties agree in writing to submit the same to him, the shipping master shall hear and decide the question so submitted, and an award made by him upon the submission shall be conclusive as to the rights of parties, and any document purporting to be such submission or award shall be *primâ facie* evidence thereof.

(2) An award made by a shipping master under this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under this Act.

Power of shipping master to require production of ship's papers.

50. (1) In any proceedings under this Act before a shipping master relating to the wages, claims or discharge of a seaman, the shipping master may require the owner or his agent or the master or any mate or other member of the crew to produce any log books, papers, or other documents in his possession or power relating to any matter in question in the proceedings, and may require the attendance of and examine any of those persons being then at or near the place on the matter.

(2) If any person so required fails, without reasonable cause, to comply with the requisition, he shall for each offence be liable to a fine which may extend to fifty rupees.

Rate of exchange for payment of seamen.

51. Where a seaman or apprentice has agreed with the master of a British ship for payment of his wages in British currency, the seaman or apprentice shall be entitled to demand and recover in British Indian

(Part II.—Masters and Seamen.)

currency the amount due to him estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council with the concurrence of the Lords Commissioners of His Majesty's Treasury for the adjustment of financial transactions between the Imperial and the Indian Governments. **in British Indian money.**

Advance and Allotment of Wages.

Advances and allotments.

52. (1) Any agreement with the crew may contain a stipulation for payment to a seaman, conditional on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

(2) Stipulations for the allotment of a seaman's wages may be made in accordance with this Act.

(3) Save as aforesaid, an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman conditional on his going to sea from any port in British India shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman's wages, and a person shall not have any right of action, suit or set off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

Regulations as to allotment notes.

53. (1) Any stipulation made by a seaman at the commencement of a voyage for the allotment of any part of his wages during his absence shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made.

(2) A seaman may require that a stipulation be inserted in the agreement for the allotment, by means of an allotment note, of any part (not exceeding one third) of his wages in favour either of a relative of the seaman or some member of his family to be named in the note.

(3) Allotment notes shall be in a form sanctioned by the ~~Local~~ G. G. in ~~Government~~ Council.

Payment of sums allotted.

54. (1) The owner or any agent who has authorised the drawing of an allotment note shall pay to the shipping master on demand the sums due under the note, and if he fails to do so, the shipping master may sue for and recover the same with costs:

Provided that no such sum shall be recoverable if it is shown to the satisfaction of the Court or Magistrate trying the case that the seaman

has forfeited or ceased to be entitled to the wages out of which the allotment was to have been paid, but the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the Court or Magistrate either by the official statement of the change in the crew caused by his absence made and signed by the master as by this Act is required, or by a certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate may consider sufficient.

(2) The shipping master on receiving any such sum as aforesaid shall pay it over to the person named in that behalf in the allotment note.

(3) All such receipts and payments shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the shipping-master or the deputy shipping-master.

(4) The said book shall be at all reasonable times open to the inspection of the parties concerned.

Rights of Seamen in respect of Wages.

Right to wages and provisions.

55. A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Right to recover wages and salvage not to be forfeited.

56. (1) A seaman shall not by any agreement forfeit his lien on the ship or be deprived of any remedy for the recovery of his wages to which in the absence of the agreement he would be entitled and shall not by any agreement abandon his right to wages in case of the loss of the ship or abandon any right that he may have or obtain in the nature of salvage, and every stipulation in any agreement inconsistent with any provisions of this Act shall be void.

(2) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship which according to the terms of the agreement is to be employed on salvage service with respect to the remuneration to be paid to them for salvage service to be rendered by that ship to any other ship.

Wages not to depend on freight.

57. (1) The right to wages shall not depend on the earning of freight and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight,

shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages.

(2) Where a seaman or apprentice who would but for death be

6. After section 58 of the said Act, the following section shall be inserted, namely:— Insertion of new section 58A in Act XXI of 1923.

"58A. (1) Where the service of a lascar or native seaman employed on a ship registered in British India or engaged in British India for employment on a foreign ship terminates before the date contemplated in the agreement by reason of the wreck or loss of the ship, the lascar shall, notwithstanding anything contained in section 58, but subject to the provisions of this section, be entitled to receive— Special provision for ship-wrecked lascars.

(a) wages at the rate to which he was entitled at the date of the termination of service, until he is sent home or to a port near his home in accordance with section 75, or until he has been sent home or to a proper port of return in accordance with the Merchant Shipping Acts, or has in any other way reached his port of departure from India or a port near his home, as the case may be, and

(b) compensation for the loss of his effects up to one month's wages at the said rate.

(2) A lascar shall not be entitled to receive wages under clause (a) of sub-section (1) in respect of any period during which—

(a) he was or could have been suitably employed, or

(b) he negligently failed to apply to the proper authority for relief as a distressed or destitute lascar."

by the discharge not exceeding one month's wages and may recover that compensation as if it were wages duly earned.

has forfeited or ceased to be entitled to the wages out of which the allot ment was to have been paid but the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the Court or Magistrate either by the official statement of the change in the crew caused by his absence made and signed by the master as by this Act is required or by a certified copy of some entry in the log book to the effect that he ha

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Wages no to depend on freight

... who would be entitled to demand and any wages if the ship in which he has served had earned freight,

shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight has not been earned, but in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages

(2) Where a seaman or apprentice who would but for death be entitled by virtue of this section to demand and recover any wages dies before the wages are paid, they shall be paid and applied in manner provided by this Act with respect to the wages of a seaman who dies during a voyage

Wages on termination of service by wreck or illness

58 Where the service of a seaman terminates before the date contemplated in the agreement by reason of the wreck or loss of the ship, or of his being left on shore at any place out of British India under a certificate granted as provided by the Merchant Shipping Acts of his unfitness or inability to proceed on the voyage, he shall be entitled to wages up to the time of such termination, but not for any longer period

Wages not to accrue during refusal to work or imprisonment

59 A seaman or apprentice shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work when required whether before or after the time fixed by the agreement for his commencement of such work nor, unless the Court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him

Power to deduct from wages cost of procuring conviction

60. Whenever in any proceeding relating to a seaman's or apprentice's wages it is shown that a seaman or apprentice has in the course of the voyage been convicted of any offence by a competent Court and rightly punished therefor by imprisonment or otherwise, the Court hearing the case may direct any part of the wages due to the seaman or apprentice not exceeding thirty rupees to be applied to re imbursing any cost properly incurred by the master in procuring the conviction and imprisonment

Compensation to seamen

61. If a seaman having signed an agreement is discharged otherwise than in accordance with the terms thereof before the commencement of the voyage or before one month's wages are earned without fault on his part justifying that discharge and without his consent he shall be entitled to receive from the master or owner in addition to any wages he may have earned due compensation for the damage caused to him by the discharge not exceeding one month's wages and may recover that compensation as if it were wages duly earned

(*Part II.—Masters and Seamen.*)

Restriction on sale of and charge upon wages.

62. (*1*) As respects wages due or accruing to a seaman or apprentice—

(*a*) they shall not be subject to attachment by order of any Court;

(*b*) an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same,

(*c*) a power-of-attorney or authority for the receipt thereof shall not be irrevocable;

(*d*) a payment of wages to a seaman or apprentice shall be valid in law notwithstanding any previous sale or assignment of those wages or any attachment or encumbrance thereof.

(*2*) Nothing in this section shall affect the provisions of this Act or any other law for the time being in force with respect to allotment notes.

Mode of recovering Wages.

Summary proceedings for wages.

63. A seaman or apprentice or a person duly authorised on his behalf may, as soon as any wages due to him not exceeding five hundred rupees become payable, sue for the same in a summary manner before any Magistrate exercising jurisdiction in or near the place at which his service has terminated or at which he has been discharged, or at which any person upon whom the claim is made is or resides, and the order made by the Magistrate in the matter shall be final.

Restrictions on suits for wages.

64. A proceeding for the recovery of wages not exceeding five hundred rupees shall not be instituted by or on behalf of any seaman or apprentice in any Colonial Court of Admiralty or in any Civil Court other than the Court of Small Causes where such a Court exists, except—

(*a*) where the owner of the ship is adjudged bankrupt or declared insolvent;

(*b*) where the ship is under arrest or is sold by the authority of any Court; or

(*c*) where a Magistrate under the authority of this Act refers a claim to the Court.

Remedies of masters for wages.

65. (*1*) The master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act or by any law or custom.

(*2*) If in any proceeding in any Colonial Court of Admiralty touching the claim of a master in respect of wages any right of set off or counter claim is set up, the Court may enter into and adjudicate upon

all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and may direct payment of any balance found to be due

Property of Deceased Seamen

66. (*1*) If any seaman or apprentice belonging to a British ship the voyage of which is to terminate in British India dies during that voyage, the master of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship

Master to take charge of the effects of deceased seamen

(*2*) The master may, if he think fit, cause any effects to be sold by auction at the mast or otherwise by public auction

(*3*) The master shall enter in the official log-book the following particulars, namely:

(*a*) a statement of the amount of money and a description of the effects,

(*b*) in the case of a sale, a description of each article sold and the sum received for each, and

(*c*) a statement of the sum due to the deceased for wages and of the amount of deduction, if any, to be made from the wages

(*4*) The said money, effects, proceeds of sale of effects, and balance of wages, are in this Act referred to as the property of the seaman or apprentice

67. (*1*) The master shall, within forty-eight hours after his arrival at his port of destination in British India, deliver and pay the property of any deceased seaman or apprentice to the shipping master at that port, and shall give to such shipping master an account of the property so delivered and paid

Disposal of property of seamen who die during the voyage.

(*2*) A deduction claimed by the master in such account shall not be allowed unless verified, if an official log-book is required to be kept, by an entry in that book, and also by such other vouchers, if any, as may be reasonably required by the shipping master

68 (*1*) If the master fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log book the proper entries relating thereto or to the payment or delivery of the property, he shall be accountable for the property to the shipping-master as aforesaid, and shall pay and deliver the same accordingly and shall in addition for each offence, be liable to a fine not exceeding treble the value of the

Penalty for [illegible]

property not accounted for or, if such value is not ascertained, not exceeding five hundred rupees

(2) The property may be recovered in the same Court and manner in which the wages of seamen may be recovered under this Act

Payment over property of deceased seamen by shipping master

69. Where any property of a deceased seaman or apprentice is paid or delivered to a shipping master, the shipping master, after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sums as he thinks proper to allow, may—

(*a*) pay and deliver the residue to any claimants who can prove themselves to the satisfaction of the said shipping-master to be entitled therto, and the said shipping-master shall be thereby discharged from all further liability in respect of the residue so paid or delivered, or

(*b*) if he thinks fit so to do, require probate or letters of administration or a certificate under the Succession Certificate Act, 1889, to be taken out, and thereupon pay and deliver the residue to the legal representative of the deceased **VII of 1**

Disposal of unclaimed property of deceased seamen

70. (*1*) Where no claim to the property of a deceased seaman or apprentice received by a shipping-master is substantiated within one year from the receipt thereof by such shipping-master, the shipping-master shall cause such property to be sold and pay the proceeds of the sale into the public treasury

(*2*) If, after any money has been so paid into the public treasury, any claim is made thereto, then if the claim is established to the satisfaction of the shipping master, the amount, or so much as shall appear to be due to the claimant, shall be paid to him, and if the claim is not so established the claimant may apply by petition to the High Court, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just

Provided that, after the expiration of six years from the receipt of such property by the shipping-master, no claim to such property shall be entertained without the sanction of the G. G. in Council ~~Local Government~~

Distressed Seamen

Relief of distressed seamen to whom Merchant Shipping Acts apply

71. (*1*) A certificate of the G. G. in Council ~~Local Government~~ or of such officer as the Local Government may appoint in this behalf to the effect that any seaman named therein is distressed shall in all proceedings under the Merchant Shipping Acts regarding the maintenance and relief of distressed seamen be conclusive evidence that such seaman is distressed within the meaning of those Acts

(2) Any master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said Acts shall for each seaman with respect to whom he so refuses be liable to a fine which may extend to one thousand rupees

Recovery of wages etc of distressed seamen under the Merchant Shipping Acts

72. (1) Where any wages or expenses recoverable in respect of distressed seamen under the Merchant Shipping Acts are, under the said Acts, a charge upon any ship or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor General in Council may from time to time by notification in the Gazette of India authorise either generally or specially, such persons[1] as he thinks fit to sue for and recover in manner in the Merchant Shipping Acts provided those wages or expenses

(2) Every person so authorised shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of
2 the Indian Evidence Act, 1872

(3) All suits and proceedings under this section shall be instituted and carried on in the name of the Secretary of State for India in Council

Relief of distressed Seamen to whom the Merchant Shipping Acts do not apply

Provisions of the Act not to apply to seamen or apprentices to whom the Merchant Shipping Acts apply

73 Nothing in the following provisions of this Part relating to distressed seamen shall apply to seamen or apprentices to whom the provisions of the Merchant Shipping Acts apply

Relief of distressed seamen at British Indian ports.

74 (1) Where any seamen or apprentices—

(a) being Indian subjects of His Majesty are found at any place in British India and have been shipwrecked discharged or left behind whether from any British ship or from any of His Majesty s ships and are in distress in that place or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign Power or to the subject of any foreign State and are in distress in British India and

1 For a list of such persons for Burma see Gen R and O Vol V p 439

(*Part II —Masters and Seamen*)

(*b*) not being Indian subjects have been shipwrecked, discharged or left behind at any place in British India from any British ship registered in British India and are in distress in any such place,

the local authority may in accordance with the prescribed conditions provide for the subsistence of those seamen and apprentices (who are hereinafter referred to as distressed seamen) until such time as such authority is able to provide them with a passage as hereinafter provided

(2) Local authority " in relation to the provisions of this Act as to distressed seamen means such person as the ~~Local Government~~ G-G in Council may, ~~subject to the control of the Governor General in Council~~, appoint to exercise the powers conferred, and to perform the duties imposed, on the local authority under this Act

Distressed seamen to be sent home on board British ship wanting seamen to make up its crew

75. (*1*) Subject to the prescribed conditions the local authority may cause distressed seamen to be put on board some ship belonging to any subject of His Majesty which is in want of men to make up its complement and is bound—

(*a*) in the case of distressed seamen who are Indian subjects of His Majesty, to their home or to a port in British India near their home

(*b*) in the case of other British distressed seamen, to any port in the United Kingdom or the British possession to which they belong (as the case requires), and

(*c*) in the case of distressed seamen not being subjects of His Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine

(2) In default of any such ship, the local authority may, subject as aforesaid, provide such distressed seamen with a passage in any ship (whether British or foreign) bound as aforesaid

Name and other particulars with regard to seamen to be indorsed on agreement of British ship

76 The local authority shall indorse on the agreement with the crew of any British ship on board of which any distressed seaman[1] is sent the name of every person so sent on board thereof, with such particulars concerning the case as may be prescribed

[1] For rules regarding the relief of distressed seamen, *see* Gen R and O Vol. V p 439

(*Part II —Masters and Seamen*)

Master of British ship compelled to convey and give subsistence to such seamen

77 (*1*) The master of every British ship shall receive and afford a passage and subsistence to all distressed seamen whom he is required to take on board his ship under the provisions of section 75, not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman with a proper berth or sleeping place effectually protected against sea and weather

(*2*) If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman contrary to the provisions of sub section (*1*), he shall, for each such seaman with respect to whom he so fails or refuses, be liable to a fine which may extend to one thousand rupees

Conditions under which master may claim payment

78. (*1*) When the master of a British ship has conveyed a distressed seaman in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this Act, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such distressed seaman such sum per diem as the Governor General in Council may fix

Provided that no such payment shall be made except on the production of the following documents (that is to say) —

(*a*) a certificate signed by the local authority by whose direction such distressed seaman was received on board, specifying the name of such seaman and the time when he was received on board and

(*b*) a declaration in writing by such master made and verified in manner hereinafter provided and stating—

(i) the number of days during which such distressed seaman received subsistence and was provided for as aforesaid on board his ship

(ii) the number of men and boys forming the complement of his crew

(iii) the number of seamen and apprentices employed on board his ship during the time such distressed seaman was on board and

(iv) every variation (if any) of such number

(*2*) The declaration required by this section shall in the case of a ship conveying Indian subjects of His Majesty to a port in British India, be made before a shipping master or such other officer as the Local

(*Part II —Masters and Seamen*)

~~Government~~ Council may appoint In other cases such declaration shall be made and verified in the same manner as declarations made under section 48 of the [1]Merchant Shipping Act, 1906 6 Edw c 48

Wages and expenses incurred in respect of distressed seamen to be charged on ship to which they belong in certain cases

79. Where any expenses are incurred by a local authority under this Part on account of a distressed seaman either for his subsistence, necessary clothing, conveyance home, and, in case he should die before reaching home, for his burial, those expenses (together with the wages, if any, due to the seaman) shall be a charge upon the ship whether British or foreign, to which he belonged

Mode of recovering such wages and expenses

80 All such expenses and wages shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or, in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the same manner and by the same form and process in which wages due to the distressed seaman would be recoverable by him

Local Government may authorise persons to recover same

81 (1) The ~~Local Government~~ G. G. in Council may, by notification in the local official Gazette, authorise, either generally or specially, such persons as it thinks fit to sue for any such expenses and wages and recover the same

(2) Every person so authorised shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the Indian Evidence Act, 1872 I of 18

Board of Trade may recover such amount from master or owner in certain cases

82 When any such expenses and wages are due to or in respect of a distressed seaman (not being an Indian subject of His Majesty) belonging to a British ship registered in British India, they may instead of being recovered by a person authorised under section 81, be recovered by the Board of Trade in manner provided by section 42 of the [1]Merchant Shipping Act, 1906 and when so recovered shall be paid by the said Board to the Secretary of State for India in Council 6 Edw c 48

What shall be evidence of distress and expenses incurred

83. In all proceedings under this Part, whether in British India or elsewhere the production of a certificate signed by the local authority by which any distressed seaman named therein was relieved, or any expenses were incurred, under this Part, to the effect that such seaman was in distress, and that such expenses were incurred in respect of such seaman, shall be sufficient evidence that such seaman was relieved,

[1] Collection of Statutes relating to India

(*Part II —Masters and Seamen*)

conveyed home or buried, as the case may be, at the expense of the revenues of India

84. The Governor General in Council may make rules[1] to determine under what circumstances and subject to what conditions distressed seamen may be relieved and provided with passages under this Part, and generally to carry out the provisions of this Part regarding distressed seamen — Power of Governor General in Council to make rules.

Provisions Health and Accommodation

85 (*1*) If three or more of the crew of a British ship consider that the provisions or water for the use of the crew are at any time of bad quality, unfit for use or deficient in quantity, they may complain thereof to any shipping master or other officer duly appointed in this behalf by the Local Government, and the shipping master or other officer may either examine the provisions or water complained of or cause them to be examined — Complaints as to provisions or water

(2) If ~~the officer or~~ any person making ~~the examination~~ an inspection under sec 91 finds that the provisions or water are of bad quality and unfit for use or deficient in quantity he shall signify it in writing to the master of the ship

(3) If the master does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity or uses any provisions or water so signified to be of bad quality and unfit for use he shall be liable for each offence to a fine which may extend to two hundred rupees

(4) ~~The officer directing or~~ The person making the ~~examination~~ inspection shall enter a statement of the result of the examination in the official log-book and shall if he is not the shipping master send a report thereof to the shipping master and that report shall be admissible in evidence in any legal proceeding

(5) ~~If the said officer certifies in that statement that there was no reasonable ground for the complaint, each of the complainants~~ shall be liable to forfeit to the owner out of his wages a sum not exceeding one week s wages

86 (*1*) In either of the following cases— — Allo for e ba l

(i) if during the voyage the allowance of any of the provisions for which a seaman has by his agreement stipulate

[1] For such rules see Gen. R. and O Vol. V, p 439

reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct either on board or on shore), or

(ii) if it is shown that any of those provisions are or have during the voyage been bad in quality or unfit for use,

the seaman shall receive by way of compensation for that reduction or bad quality according to the time of its continuance the following sums to be paid to him in addition to and to be recoverable as wages:—

(*a*) if his allowance is reduced by not more than one third of the quantity specified in the agreement, a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman or one anna in the case of a lascar or native seaman,

(*b*) if his allowance is reduced by more than one third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman or two annas in the case of a lascar or native seaman,

(*c*) in respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

(*2*) If it is shown to the satisfaction of the Court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the Court shall take those circumstances into consideration and modify or refuse the compensation as the justice of the case requires.

Medicines to be provided and kept on board certain ships.

87. (*1*) All foreign going British ships and all home trade ships of more than three hundred tons burden shall have always on board a sufficient supply of medicines and appliances suitable for diseases and accidents likely to happen on sea voyages according to such scale as is from time to time issued by the ~~Local Government with the approval of the Governor-General in Council~~ and published in the ~~local official~~ Gazette.

(*2*) If any requirement in this section with respect to the provision of medicines and appliances is not complied with in the case of any ship,

the owner or master of that ship shall for each offence be liable to a fine which may extend to two hundred rupees, unless he can prove that the non-compliance was not caused by his inattention, neglect or wilful default.

(3) This section shall not apply to ships navigating between the United Kingdom and any port in British India and to which section
60 200 of the [1]Merchant Shipping Act, 1894, applies.

88. The master of a ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out and shall allow the same to be used at the time of serving out the provisions and articles in the presence of witnesses whenever any dispute arises about the quantities. If the master of a ship fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

Weights and measures on board.

89. (1) If the master of, or a seaman or apprentice belonging to, a ship registered in British India receives any hurt or injury in the service of the ship, the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured or dies or is brought back to the port from which he was shipped or other port agreed upon and of his conveyance to that port and in case of death, the expense, if any, of his burial, shall be defrayed by the owner of the ship without any deduction on that account from his wages.

Expenses of medical attendance in case of illness.

(2) Where any expenses referred to in this section have been paid by the master, seaman, or apprentice himself, the same may be recovered as if they were wages duly earned, and, if any such expenses are paid or allowed out of any money forming part of the revenues of India, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the Secretary of State for India in Council.

90. (1) Every place in a British ship which is occupied by seamen or apprentices engaged under this Act and appropriated for their use

(*b*) for each lascar or native seaman or person shipped on the same footing as a lascar, six superficial and thirty six cubic feet and, if the place allotted be under the top gallant forecastle, such forecastle deck shall be not less than four feet six inches above the one below it

(2) In every case the place shall be below a well caulked and substantial deck, securely constructed, properly ventilated and properly protected from weather and sea

(3) If any of the foregoing requirements of this section is not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine which may extend to two hundred rupees

(4) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage

(5) If any such place is not so kept free, the master shall for each offence be liable to a fine which may extend to one hundred rupees

Inspection of medicines and appliances and accommodation

91 (1) The shipping master or deputy shipping master at any port in British India may enter at any time on board any ship upon which seamen have been shipped at that port and inspect the medicines and appliances and the accommodation for seamen with which the ship is required to be provided by or under this Act or the Merchant Shipping Acts

(2) If, on inspection, the provisions or water on board any ship are found to be of bad quality and unfit for use or deficient in quantity, the shipping master shall proceed as provided in section 85 and the fine prescribed by the said section shall be incurred by any default of the master of the ship in respect of such provisions or water and the ship shall be detained until the defects are remedied to the satisfaction of the shipping master

Facilities for making Complaints

Facilities for making complaints

92 (1) If a seaman or apprentice, whilst on board ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the master shall, so soon as the service of the ship will permit,

(*a*) if the ship is then at a place where there is a Magistrate, after such statement, and

(*b*) if the ship is not then at such place, after her first arrival at such a place,

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allow the complainant to go ashore or send him ashore in proper custody so that he may be enabled to make the complaint.

(2) If the master of a ship fails without reasonable cause to comply with the provisions of this section, he shall for each such offence be liable to a fine which may extend to one hundred rupees.

Protection of Seamen from Imposition.

93. Subject to the provisions of this Act, an assignment or sale of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and a power of attorney or authority for the receipt of any such salvage shall not be irrevocable. Assignment or sale of salvage invalid.

94. A debt exceeding in amount three rupees incurred by any seaman after he has engaged to serve shall not be recoverable until the service agreed for is concluded. No debt exceeding three rupees recoverable till...

95. If a person demands ...

or takes out of the ship any effects of a seaman except under the personal direction of the seaman and with the permission of the master, he shall for each offence be liable to a fine which may extend to fifty rupees.

(*b*) for each lascar or native seaman or person shipped on the same footing as a lascar, six superficial and thirty-six cubic feet and, if the place allotted be under the top gallant forecastle, such forecastle deck shall be not less than four feet six inches above the one below it

(2) In every case the place shall be below a well caulked and substantial deck, securely constructed, properly ventilated and properly protected from weather and sea

(3) If any of the foregoing requirements of this section is not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine which may extend to two hundred rupees

(4) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage

(5) If any such place is not so kept free, the master shall for each [illegible] extend to one hundred rupees

Amendment of section 91, Act XXI of 1923.

8. For section 91 of the said Act, the following section shall be substituted, namely —

Inspection of provisions, water, medicines and appliances weights and measures and accommodation.

"91 A shipping-master, deputy shipping-master, or other officer duly appointed in this behalf by the Governor General in Council, at any port—

(*a*) in the case of any ship upon which seamen have been shipped at that port, may at any time, and

or 1931] *Indian Mer[illegible]*

(*b*) in the case of any British ship, may at any time, and, if the master or three or more of the crew so request, shall,

enter on board the ship and inspect—

(*i*) the provisions and water,

(*ii*) the medicines and appliances,

(*iii*) the weights and measures,

(*iv*) the accommodation for seamen,

with which the ship is required to be provided by or under this Act or the Merchant Shipping Acts"

(*a*) if the ship is then at a place where there is a Magistrate, after such statement, and

(*b*) if the ship is not then at such place, after her first arrival at such a place,

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allow the complainant to go ashore or send him ashore in proper custody so that he may be enabled to make the complaint.

(2) If the master of a ship fails without reasonable cause to comply with the provisions of this section, he shall for each such offence be liable to a fine which may extend to one hundred rupees.

Protection of Seamen from Imposition.

93. Subject to the provisions of this Act, an assignment or sale of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and a power of attorney or authority for the receipt of any such salvage shall not be irrevocable. **Assignment or sale of salvage invalid.**

94. A debt exceeding in amount three rupees incurred by any seaman after he has engaged to serve shall not be recoverable until the service agreed for is concluded. **No debt exceeding three rupees recoverable till end of voyage.**

95. If a person demands or receives from a seaman or apprentice payment in respect of his board or lodging in the house of that person for a longer period than the seaman or apprentice has actually resided or boarded therein, that person shall for each offence be liable to a fine which may extend to one hundred rupees. **Penalty for over charges by lodging-house keepers.**

96. (*1*) If a person receives or takes into his possession or under his control any money or effects of a seaman or apprentice and does not return the same or pay the value thereof when required by the seaman or apprentice subject to such deduction as may be justly due to him from the seamen or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall for each offence be liable to a fine which may extend to one hundred rupees. **Penalty for detaining seamen's effects.**

(*2*) Any Magistrate imposing a fine under this section may direct the amount of such money or the value of the effects, subject to such deduction as aforesaid, if any, or the effects themselves to be forthwith paid or delivered to the seaman or apprentice.

97. If within twenty-four hours after the arrival of a ship at a port in British India a person then being on board the ship solicits a seaman to become a lodger at the house of any person letting lodgings for hire or takes out of the ship any effects of a seaman except under the personal direction of the seaman and with the permission of the master, he shall for each offence be liable to a fine which may extend to fifty rupees. **Penalty for solicitations by lodging-house keepers.**

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Penalty for being on board ship without permission before seamen leave.

98. Where a ship is about to arrive or is arriving or has arrived at the end of the voyage and any person not being in His Majesty's service or not being duly authorised by law for the purpose goes on board the ship without the permission of the master before the seamen lawfully leave the ship at the end of their engagement or are discharged (whichever happens last), that person shall for each offence be liable to a fine which may extend to two hundred rupees, and the master of the ship may take him into custody and deliver him up forthwith to a police officer to be taken before a Magistrate to be dealt with according to the provisions of this Act.

Provisions as to Discipline.

Misconduct endangering life or ship.

99. If a master, seaman or apprentice belonging to a British ship by wilful breach of duty or by neglect of duty or by reason of drunkenness—

(a) does any act tending to the immediate loss, destruction or serious damage of the ship or tending immediately to endanger the life or limb of a person belonging to or on board the ship, or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage or for preserving any person belonging to or on board the ship from immediate danger to life or limb,

he shall be liable for every such offence to a fine which may extend to one thousand rupees or to imprisonment for a term which may extend to two years, or to both.

Desertion and absence without leave.

100. If a seaman lawfully engaged or an apprentice commits any of the following offences he shall, notwithstanding anything in the Code of Criminal Procedure, 1898, be liable to be tried in a summary manner and to be punished as follows:— V of 18[98].

(i) if he deserts from his ship, he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects he leaves on board and of the wages which he has then earned and also, if the desertion takes place at any place not in British India, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to British India, and to satisfy any excess of wages paid by the master or owner of the ship

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from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also he shall be liable to imprisonment for a term which may extend to twelve weeks;

(ii) if he neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship or is absent without leave at any time within twenty-four hours of the ship's sailing from a port either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship or from his duty, he shall, if the offence does not amount to desertion or is not treated as such by the master, be guilty of the offence of absence without leave and be liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses properly incurred in hiring a substitute, and also he shall be liable to imprisonment for a term which may extend to ten weeks.

101. (*1*) If a seaman or apprentice is guilty of the offence of desertion or of absence without leave or otherwise absents himself from his ship without leave, the master, any mate, the owner, ship's husband or consignee of the ship may, with or without the assistance of police officers, convey him on board his ship; and those officers are hereby directed to give assistance if required. **Conveyance of deserter or imprisoned seaman on board ship.**

(*2*) If the seaman or apprentice so requires, he shall first be taken before some Court capable of taking cognizance of the matter to be dealt with according to law.

(*3*) If it appears to the Court before whom the case is brought that the seaman or apprentice has been conveyed on board or taken before the Court on improper or insufficient grounds, that Court may inflict on the master, mate, owner, ship's husband or consignee, as the case may be, a fine which may extend to two hundred rupees.

(*4*) The infliction of such fine shall be a bar to any action for false imprisonment in respect of the arrest.

(*5*) If a seaman or apprentice is imprisoned for having been guilty of the offence of desertion or of absence without leave or for having committed any other breach of discipline, and during his imprisonment and before his engagement is at an end his services are required on board

his ship any Magistrate may, on the application of the master or of the owner or his agent, notwithstanding that the period of his imprisonment is not at an end, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed.

Power to Court to order offender to be taken on board ship.

102. Where a seaman or apprentice is brought before a Court on the ground of the offence of desertion or of absence without leave or of otherwise absenting himself without leave, the Court, if the master or the owner or his agent so requires, may, in lieu of committing him to prison, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the conveyance to be paid by the offender and, if necessary, to be deducted from any wages which he has then earned or by virtue of his then existing engagement may afterwards be earned.

General offences against discipline.

103. If a seaman lawfully engaged or an apprentice commits any of the following offences (in this Act referred to as offences against discipline) he shall, notwithstanding anything in the Code of Criminal Procedure, 1898, be liable to be tried in a summary way and to be punished as follows, namely:— V of 1898.

(i) if he quits the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;

(ii) if he is guilty of wilful disobedience to any lawful command, he shall be liable to imprisonment for a period which may extend to four weeks, and shall also be liable to forfeit out of his wages a sum not exceeding two days' pay;

(iii) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to imprisonment for a term which may extend to twelve weeks, and shall also be liable for every twenty-four hours' continuance of such disobedience or neglect for a sum not exceeding six days' pay or any expenses which may have been properly incurred in hiring a substitute;

(iv) if he assaults the master or any mate or a certificated engineer of the ship, he shall be liable to imprisonment for a term which may extend to twelve weeks;

(v) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for a term which may extend to twelve weeks;

(vi) if he wilfully damages his ship or commits criminal misappropriation or breach of trust in respect of or wilfully damages any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained, and also to imprisonment for a term which may extend to twelve weeks;

(vii) if he is convicted of any act of smuggling whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to reimburse the loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction on account of that liability without prejudice to any further remedy.

104. (*1*) If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship or wilfully and fraudulently makes a false statement of his own name, he shall for each offence be liable to a fine which may extend to fifty rupees. **Penalty for false statement as to last ship or name.**

(*2*) The fine may be deducted from any wages the seaman may earn by virtue of his engagement as aforesaid, and shall, subject to reimbursement of the loss or expenses, if any, occasioned by any desertion previous to the engagement, be paid and applied in the same manner as other fines under this Act.

105. If any offence within the meaning of this Act of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine,— **Entry of offences in official log.**

(i) an entry of the offence or act shall be made in the official log book and signed by the master and also by the mate or one of the crew; and

(ii) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or if she is at the time

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in port, before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him and may thereupon make such reply thereto as he thinks fit; and

(iii) a statement of a copy of the entry having been so furnished or the entry having been so read over and in either case the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid; and

(iv) in any subsequent legal proceedings the entries by this section required shall, if practicable, be produced or proved, and, in default of that production or proof, the Court hearing the case may, in its discretion, refuse to receive evidence of the offence or act of misconduct.

Report of desertions and absences without leave.

106. (1) Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself in British India without leave from a British ship in which he is engaged to serve, the master of the ship shall within forty-eight hours of discovering such desertion or absence, report the same to the shipping master or to such other officer as the ~~Local Government~~ G. G. in Council appoints in this behalf, unless in the meantime, the deserter or absentee returns.

(2) Any master wilfully neglecting to comply with the provisions of this section shall be liable to a fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Entries and certificates of desertion abroad.

107. (1) In every case of desertion from a ship registered in British India whilst such ship is at any place out of British India, the master shall produce the entry of the desertion in the official log-book to the person authorised by the [1]Merchant Shipping Act, 1906, to grant certificates for leaving seamen behind abroad, and that person shall thereupon make and certify a copy of the entry. 6 Edw. 7, c. 48.

(2) The master shall forthwith transfer such copy to the shipping master at the port at which the seaman or apprentice was shipped, and the shipping master shall, if required, cause the same to be produced in any legal proceeding.

(3) Such copy, if purporting to be so made and certified as aforesaid shall in any legal proceeding relating to such desertion, be admissible in evidence.

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[1]Collection of Statutes relating to India, Vol. II.

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108 (*1*) Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or if the voyage was to terminate in British India and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official log book

Facilities for proving desertion in proceeding for forfeiture of wages

(*2*) The desertion shall thereupon so far as relates to any forfeiture of wages under this Part be deemed to be proved unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship

109 (*1*) Where any wages or effects are under this Act forfeited for desertion from a ship they shall be applied towards re imbursing the expenses caused by the desertion to the master or the owner of the ship and subject to that re imbursement shall be paid into the public treasury and carried to the account of Government

Application of forfeitures

(*2*) For the purposes of such re imbursement the master or the owner or his agent may, if the wages are earned subsequent to the desertion recover them in the same manner as the deserter could have recovered them if not forfeited and the Court in any legal proceeding relating to such wages may order them to be paid accordingly

(*3*) Where wages are forfeited under the foregoing provisions of this Act in any case other than for desertion the forfeiture shall in the absence of any specific provision to the contrary be for the benefit of the master or owner by whom the wages are payable

110 Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages notwithstanding that the offence in respect of which the question arises though by this Act made punishable by imprisonment as well as forfeiture has not been made the subject of any criminal proceeding

Decision of questions of forfeiture and deduction in suits for wages

111 (*1*) If a seaman contracts for wages by the voyage or by the run or by the share and not by the month or other stated period of time the amount of forfeiture to be incurred under this Act shall be an amount bearing the same proportion to the whole wages or share as a

Ascertainment of amount of forfeiture out of wages

month or any other period hereinbefore mentioned in fixing the amount of forfeiture (as the case may be) bears to the whole time spent in the voyage or run.

(*2*) If the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited the forfeiture shall extend to the whole wages or share.

Payment of fines imposed under agreement to shipping master.

112. (*1*) Every fine imposed on a seaman for any act of misconduct for which his agreement imposes a fine shall be deducted and paid over as follows, namely:—

(i) if the offender is discharged at any port or place in British India and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign going ship to the satisfaction of the shipping master before whom the offender is discharged, and in the case of a home trade ship to the satisfaction of the shipping master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping master; and

(ii) if before the final discharge of the crew in British India any such offender as aforesaid enters into any of His Majesty's ships or is discharged at any place not in British India, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters or of the consular officer, officer of Customs or other person by whose sanction he is so discharged, the *fine shall thereupon be deducted as aforesaid and an entry* of such deduction shall then be made in the official log book (if any) and signed by such officer or other person, and on the return of the ship to British India the master or owner shall pay over such fine in the case of foreign going ships to the shipping master before whom the crew is discharged, and in the case of home trade ships to the shipping master at or nearest to the place at which the crew is discharged.

(*2*) If any master or owner neglects or refuses so to pay over the fine, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him.

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(3) An act of misconduct for which any such fine has been inflicted and paid shall not be otherwise punished under the provisions of this Act.

Penalty for enticing to desert.

113. If a person by any means whatever persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or desert from his ship, or otherwise to absent himself from his duty, he shall for each offence in respect of each seaman or apprentice be liable to a fine which may extend to one hundred rupees.

Penalty for harbouring deserters.

114. If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to a fine which may extend to one hundred rupees.

Penalty on stowaways and discipline of stowaways and seamen carried under compulsion.

115. (*1*) If a person secretes himself and goes to sea in a ship without the consent of either the owner, consignee or master, or of a mate, or of the person in charge of the ship, or of any other person entitled to give that consent, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to four weeks.

(*2*) Every sea-faring person whom the master of a ship is under the authority of this Act or any other law compelled to take on board and convey, and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline and to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of, and had signed the agreement with, the crew.

Procedure where seaman or apprentice not shipped in British India is imprisoned on complaint of master or owner.

116. (*1*) If any seaman or apprentice who is not shipped in British India is imprisoned on complaint made by or on behalf of the master or owner of the ship, or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, then—

(*a*) while such imprisonment lasts, no person shall, without the previous sanction in writing of the ~~Local Government~~ or of such officer as it may appoint in this behalf, engage any native of India to serve as a seaman on board such ship; and

(*b*) the ~~Local Government~~ or such officer as it may appoint in this behalf may tender such seaman or apprentice to the master or owner of the ship in which he is engaged to serve, and

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if such master or owner without assigning reasons satis factory to the ~~Local Government~~ Ch Commr t or to such officer as afore said refuses to receive him on board may require such master or owner to deposit in the local shipping office—

(i) the wages due to such seaman or apprentice and his money and effects and

(ii) such sum as may in the opinion of the Local Govern ment or such officer as aforesaid be sufficient to defray the cost of the passage of such seaman or apprentice to the port at which he was shipped accord ing to the scale of costs usual in the case of distressed seamen

(2) If any person wilfully disobeys the prohibition contained in clause (a) of sub section (1) he shall be liable to imprisonment for a term which may extend to three months or to a fine which may extend to one thousand rupees, or to both

(3) Any master or owner refusing or neglecting to deposit any wages, money effects or sum when so required by this section shall be liable to a fine which may extend to five hundred rupees

Power to send on board seaman or apprentice not shipped in British India who is undergoing imprisonment

117 If any seaman or apprentice who is not shipped in British India is imprisoned for any offence for which he has been sentenced to im prisonment for a term not exceeding one month, and if during such im prisonment and before his engagement is at an end his services are required on board his ship any Magistrate may at the request of the master or owner or his agent cause the seaman or apprentice to be con veyed on board the ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent to be by them so conveyed notwithstanding that the period for which he was sentenced to imprisonment has not terminated

On change of master documents to be handed over to successor

118 (1) If during the progress of a voyage the master of any ship registered in British India is removed or superseded or for any other reason quits the ship and is succeeded in the command by some other person he shall deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody and shall in default be liable to a fine which may extend to one thousand rupees

(2) Such successor shall immediately on assuming the command of the ship enter in the official log book a list of the documents so delivered to him

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Leaving Seamen or Apprentices in British India

119. (*1*) No seaman or apprentice who was not shipped in British India shall be discharged at any port in British India without the previous sanction in writing of such officer as the ~~Local Government~~ G. G. in Council appoints in this behalf. Such sanction shall be given or withheld at the discretion of the officer so appointed, but, whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing. Discharge or leaving behind in British India of seamen or apprentice not shipped in British India.

(*2*) If any person discharges a seaman or apprentice in wilful disobedience to the prohibition contained in sub-section (*1*), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

Official Logs

120. (*1*) An official log shall be kept in every ship registered in British India except home-trade ships not exceeding three hundred tons burden in the form sanctioned by the ~~Local Government~~ G. G. in Council. Official logs to be kept and to be dated.

(*2*) The official log may, at the discretion of the master or owner, be kept distinct from or united with the ordinary ship's log so that in all cases the spaces in the official log book be duly filled up.

(*3*) An entry required by this Act in the official log book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge shall not be made more than twenty-four hours after that arrival.

(*4*) Every entry in the official log book shall be signed by the master and by the mate or some other of the crew and also—

(*a*) if it is an entry of injury or death, shall be signed by the surgeon or medical practitioner on board, if any; and

(*b*) if it is an entry of wages due to or of the sale of the effects of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master; and

(*c*) if it is an entry of wages due to a seaman who enters His Majesty's naval service, shall be signed by the seaman or by the officer authorised to receive the seaman into that service.

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(5) Every entry made in an official log book in the manner provided by this Act shall be admissible in evidence.

Entries required in official log book.

121. The master of a ship for which an official log is required shall enter or cause to be entered in the official log book the following matters, namely:—

(i) every conviction by a legal tribunal of a member of his crew, and the punishment inflicted;

(ii) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture or exact a fine together with such statement concerning the reading over of that entry, and concerning the reply (if any) made to the charge as is by this Act required;

(iii) every offence for which punishment is inflicted on board and the punishment inflicted;

(iv) a statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars;

(v) every case of illness or injury happening to a member of the crew with the nature thereof, and the medical treatment adopted (if any);

(vi) every case of death happening on board and the cause thereof;

(vii) every birth happening on board with the sex of the infant and the names of the parents;

(viii) every marriage taking place on board with the names and ages of the parties;

(ix) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof;

(x) the wages due to any seaman who enters His Majesty's naval service during the voyage;

(xi) the wages due to any seaman or apprentice who dies during the voyage and the gross amount of all deductions to be made therefrom;

(xii) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it;

(xiii) every collision with any other ship and the circumstances under which the same occurred.

122. (*1*) If an official log book is not kept in the manner required by this Act, or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master shall, if no other penalty is provided by this Act, be liable for each offence to a fine which may extend to fifty rupees. Offences in respect of official logs.

(*2*) If any person makes or procures to be made, or assists in making any entry in any official log book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty four hours after such arrival, he shall for each offence be liable to a fine which may extend to three hundred rupees.

(*3*) If any person wilfully destroys or mutilates or renders illegible any entry in any official log book or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log book, he shall be liable to imprisonment for a term which may extend to one year.

123. (*1*) The master of every foreign going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in British India or upon the discharge of the crew, whichever first happens, deliver the official log book of the voyage to the shipping master before whom the crew is discharged. Delivery of official logs to shipping masters.

(*2*) The master or owner of every home trade ship for which an official log is required to be kept shall within twenty one days of the thirtieth day of June and the thirty first day of December in every year, transmit or deliver to some shipping master in British India the official log book for the preceding half year.

(*3*) If the master or owner of a ship fails without reasonable cause to comply with this section he shall be liable to a fine which may extend to two hundred rupees.

124. (*1*) Where by reason of transfer of ownership or change of employment of a ship the official log ceases to be required in respect of the ship or to be required on the same date, the master or owner of the ship shall if the ship is then in British India, within one month and if she is elsewhere, within six months, after the cessation, deliver or transmit to the shipping master at the port to which the ship belonged the official log book, if any, duly made out at the time of the cessation. Official logs to be sent to shipping master in case of transfer of ship and in case of loss.

(2) If a ship is lost or abandoned the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping-master at the port to which the ship belonged the official log book, if any, duly made out to the time of the loss or abandonment

(3) If the master or owner of the ship fails without reasonable cause to comply with the provisions of this section he shall for each offence be liable to a fine which may extend to one hundred rupees

PART III

PASSENGER SHIPS

Survey of Passenger Ship

No steam ship to carry passengers without a certificate of survey

125 (*1*) No steam ship shall carry more than twelve passengers between places in British India or to or from any place in British India from or to any place out of British India, unless she has a certificate of survey under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed

(2) Nothing in sub section (*1*) shall apply to—

(*a*) any steam ship having a certificate of survey granted by the Board of Trade, or by the Government of any part of His Majesty s dominions where such certificate has been declared under section 284 of the [1]Merchant Shipping Act, 1894 to be of the same force as if granted under that Act, unless it appears from the certificate that it is inapplicable to the voyage on which the steam ship is about to proceed or the service on which she is about to be employed or unless there is reason to believe that the steam ship has since the grant of the certificate sustained injury or damage or been found unseaworthy or otherwise inefficient or (57 & 58 Vict c 60)

(*b*) any steam ship having a certificate of survey granted under the Inland Steam Vessels Act 1917, in force and applicable to the voyage on which the steam ship is about to proceed or the service on which she is about to be employed or (I of 1917)

(*c*) any steam ship carrying passengers during the interval between the time at which her certificate of survey under this Part expires and the time at which it is first practicable to have the certificate renewed

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(*Part III.—Passenger Ships.*)

Power for Local Government to exempt certain steam ships

126. The ~~Local Government~~ may, ~~with the previous sanction of the Governor General in Council~~ by notification in the ~~local official~~ Gazette, declare that all or any of the provisions of this Part relating to the survey of steam ships shall not apply in the case of any specified steam-ship or class of steam ships or shall apply thereto with such modifications as the Local Government may direct.

No port clearance until certificate of survey produced

127. No officer of Customs shall grant a port clearance, nor shall any pilot be assigned to any steam ship for which a certificate of survey is required by this Part until after the production by the owner or master thereof of a certificate under this part in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

Power to detain steam ship not having certificate of survey

128. If any steam ship for which a certificate of survey is required by this Part leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the steam ship may detain her until she obtains a certificate.

Appointment of surveyors and ports of survey

129. The ~~Local Government~~ may appoint so many persons as it thinks fit to be surveyors for the purposes of this Part at such ports ~~within the territories under its administration~~ as it may appoint to be ports of survey.

Powers of surveyor

130. (*1*) For the purposes of a survey under this Part any surveyor appointed under this Part may, at any reasonable time, go on board a steam ship and may inspect the steam ship and any part thereof, and the machinery, equipments or articles on board thereof:

Provided that he does not unnecessarily hinder the loading or unloading of the steam ship, or unnecessarily detain or delay her from proceeding on any voyage.

(*2*) The owner, master and officers of the steam ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam ship and her machinery and equipments or any part thereof respectively as he reasonably requires.

Fees in respect of surveys

131. Before a survey under this Part is commenced the owner or master of the steam ship to be surveyed shall pay to such officer as the ~~Local Government~~ may appoint in this behalf—

(*a*) a fee calculated on the tonnage of the steam ship according to the rates in Schedule II or according to any other prescribed rates, and

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(*b*) when the survey is to be made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port, as the ~~Local Government~~ may, by notification in the ~~local official~~ Gazette, direct

Power for Local Government to direct that two surveyors be employed

132 A survey under this Part shall ordinarily be made by one surveyor, but two surveyors may be employed if the ~~Local Government~~ by order in writing so directs, either generally in the case of all steam ships at any port of survey, or specially in the case of any particular steam ship or class of steam ships at any such port

Division of duties when two surveyors employed.

133 When a survey is made under this Part by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Part or the rules made thereunder to a surveyor making a survey

Declaration of surveyor

134 When a survey under this Part is completed, the surveyor making it shall forthwith if satisfied that he can with propriety do so, give to the owner or master of the steam ship surveyed a declaration of survey in the prescribed form containing the following particulars, namely —

(*a*) that the hull and machinery of the steam ship are sufficient for the service intended and in good condition

(*b*) that the equipments of the steam ship and the certificates of the master, mate or mates and engineer or engineers or engine driver are such and in such condition as are required by any law for the time being in force and applicable to the steam ship

(*c*) the time (if less than one year) for which the hull machinery and equipments of the steam ship will be sufficient

(*d*) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steam ship is in the surveyor's judgment not fit to ply

(*e*) the number of passengers which the steam ship is, in the judgment of the surveyor fit to carry distinguishing if necessary between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins, the number to be subject to such conditions and

(Part III.—Passenger Ships.)

variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances, as the case requires; and

(f) any other prescribed particulars.

Sending of declaration by owner or master to Local Government.

135. (1) The owner or master to whom a declaration of survey is given shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the ~~Local Government~~ may appoint in this behalf.

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay any sum so forfeited on the delivery of the certificate of survey.

Grant of certificate of survey by Local Government.

136. (1) Upon receipt of a declaration of survey, the Local Government shall, if satisfied that the provisions of this Part have been complied with, cause a certificate in duplicate to be prepared and delivered, through such officer at the port at which the steam ship was surveyed as the ~~Local Government~~ may appoint in this behalf, to the owner or master of the steam ship surveyed, on his applying and paying the sums (if any) mentioned in this Part as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in the prescribed form, shall contain a statement to the effect that the provisions of this Part with respect to the survey of the steam ship and the transmission of the declaration of survey in respect thereof have been complied with, and shall set forth—

(a) the particulars concerning the steam ship which clauses (c), (d) and (e) of section 134 require the declaration by the surveyor to contain; and

(b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the ~~Local Government~~ shall cause notice thereof to be given by post or otherwise to the owner or master of the steam ship to which the certificate relates.

(4) The ~~Local Government~~ may delegate to any person—

(a) the function assigned to the Local Government by sub-section (1) of granting a certificate of survey under that sub-section;

(b) the function assigned to the Local Government by sub-section (3) of causing notice to be given of a certificate of survey being ready for delivery.

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Provided, with respect to clause (*a*) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey.

Power for Local Government to order a second survey.

137. (*1*) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration of survey under section 134 with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require, direct two other surveyors appointed under this Part to survey the steam-ship.

(*2*) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper, and their decision shall be final.

Duration of certificates of survey.

138. A certificate of survey granted under this Part shall not be in force—

(*a*) after the expiration of one year from the date thereof; or

(*b*) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or

(*c*) after notice has been given by the Local Government to the owner or master of the steam-ship to which the certificate relates that the Local Government has cancelled or suspended it.

Cancellation or suspension of certificate of survey by Local Government.

139. Any certificate of survey granted under this Part may be cancelled or suspended by a Local Government if it has reason to believe—

(*a*) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-ship has been fraudulently or erroneously made; or

(*b*) that the certificate has otherwise been issued upon false or erroneous information; or

(*c*) that since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-ship have sustained any injury or have otherwise become insufficient.

(Part III.—Passenger Ships.)

Power to require delivery of expired or cancelled certificate of survey.

140. (*1*) The Local Government may require any certificate of survey granted under this Part which has expired, or has been cancelled or suspended, to be delivered up to such person as it directs.

(*2*) If the owner or master of a steam ship without reasonable cause neglects or refuses to deliver up a certificate when required to do so under this section, he shall be liable to a fine which may extend to one hundred rupees.

Report of cancellation or suspension of certain certificates.

141. If the Local Government which can [illegible] of survey granted under this Part is not the [illegible] whose delegate granted the certificate, the [illegible] or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons thereof, to the Local Government which or whose delegate granted the certificate.

Certificate of survey to be affixed in conspicuous part of steam ship.

142. (*1*) The owner or master of every steam ship for which a certificate of survey has been granted under this Part shall forthwith on the receipt of the certificate cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the steam ship is in use, on some conspicuous part of the steam ship where it may be easily read by all persons on board thereof.

(*2*) If the certificate is not so kept affixed, the owner and master of the steam ship shall each be liable to a fine which may extend to one hundred rupees.

Penalty for carrying passengers in contravention of the Act.

143. If a steam ship on any voyage carries or attempts to carry passengers in contravention of section 125, or has on board or in any part thereof a number of passengers which is greater than the number set forth in the certificate of survey as the number of passengers which the steam ship or the part thereof is fit to carry on that voyage, the owner and the master shall each be punishable with a fine which may extend to one thousand rupees, and also with an additional fine not exceeding twenty rupees for every passenger above the number so set forth, or, if the fare of any passenger on board exceeds twenty rupees, not exceeding double the amount of the fares of all the passengers above the number so set forth, reckoned at the highest rate of fare payable by any passenger on board; and if the master or any other officer of any steam ship which carries or attempts to carry passengers in contravention of section 125 is a licensed pilot, he shall be liable to have his licence as a pilot suspended or cancelled for any period by the Local Government.

(Part III.—Passenger Ships.)

Steam ships with foreign certificates of survey or certificates of partial survey.

144. (*1*) When a steam ship requires to be furnished with a certificate of survey under this Part and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port where the survey was made, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Part:

Provided that this sub-section shall not apply in the case of a foreign steam ship to an official survey at any foreign port with respect to which His Majesty has by Order in Council directed that section 363 of the [1]Merchant Shipping Act, 1894, shall not apply. 7 & 58 Vict, c

(*2*) When the Local Government has by notification in the local official Gazette declared that it is satisfied that an official survey at any foreign port specified in the declaration is such as to prove that the requirements of this Act have been substantially complied with, any person appointed by the Local Government in this behalf may exercise the power to dispense with a survey and to give a certificate conferred on the Local Government by sub-section (*1*) in the case of any steam ship furnished with a valid certificate of survey granted at such foreign port and duly attested by the British Consular Officer at that port.

(*3*) The procedure prescribed in sub-section (*1*) shall be applicable in the case of steam ships furnished with valid certificates of partial survey, including docking certificates, granted by the Board of Trade or any British Colonial Government, as if they were steam ships furnished with like certificates of survey granted at foreign ports, subject to the modification that the powers of the Local Government under the said sub-section may be exercised by any person appointed by the Local Government in this behalf.

Power for Local Government to make rules as to surveys.

145. (*1*) The Local Government may, subject to the condition of previous publication and the sanction of the Governor General in Council, make rules to regulate the making of surveys under this Part.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare the times and places at which, and the manner in which, surveys are to be made;

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(b) regulate the duties of the surveyor making a survey and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;

(c) declare the form in which the declarations of surveyors and certificates of survey under this Part are to be framed, and the nature of the particulars which are to be stated therein, respectively; and

(d) fix the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey ~~within the territories under its administration~~.

Provisions in case of Wreck of Ship carrying Steerage Passengers.

Application of certain sections of Merchant Shipping Act, 1894, in case of wreck of ship carrying steerage passengers on certain voyages.

146. (1) The provisions contained in Part I of Schedule III (being sections 332, 333, 334 and 335 of the [1]Merchant Shipping Act, 1894) are declared applicable to ships carrying steerage passengers upon the following voyages, namely:—

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(a) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji;

(b) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Reunion, Martinique, Guadeloupe and its dependencies, and Guiana;

(c) voyages from the ports of Calcutta, Madras and Bombay to the Netherlands Colony of Dutch Guiana;

(d) voyages from the ports of Calcutta, Madras and Bombay to the Danish Colony of St. Croix;

(e) voyages under Part IV of this Act (which relates to native passenger ships) from Calcutta, Madras, Bombay, Karachi, Rangoon and other ports in British India to the Straits Settlements, to the Protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa;

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(2) This section shall not come into operation until His Majesty's pleasure thereon has been publicly signified by notification in the Gazette of India.

(3) On such signification of such pleasure, the Indian Sea Passengers Act, 1887, shall be repealed. XII of

PART IV.

NATIVE PASSENGER SHIPS AND PILGRIM SHIPS.

Application of Part.

147. (1) This Part applies—

(a) to all subjects of His Majesty within the dominions of Princes and States in India;

(b) to all Indian subjects of His Majesty without and beyond British India.

(2) But the provisions of this Part relating to native passenger ships do not apply—

(a) to any steam ship not carrying as passengers more than sixty natives of Asia or Africa;

(b) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India; or

(c) to any ships to which the provisions of the Inland Steam Vessels Act, 1917, are applicable. G. G. I of 19

(3) Notwithstanding anything in sub-sections (1) and (2), the ~~Local Government~~ in Council may, ~~with the previous sanction of the Governor General in Council~~, declare all or any of the provisions of this Part relating to native passenger ships to apply to sailing ships, or any class of sailing-ships carrying as passengers more than fifteen natives of Asia or Africa, and to steam ships or any class of steam ships carrying as passengers more than thirty such persons.

Power to exempt ship from provisions of Part IV.

148. (1) The G. G. in Council ~~Local Government, with the previous sanction of the Governor General in Council~~, may, subject to such condition as it thinks fit, exempt any ship or class of ships from any provision of this Part relating to native passenger ships.

(2) In imposing a condition under this section the G. G. in Council ~~Local Government~~ may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(Part II.—Native Passenger Ships and Pilgrim Ships.)

149 In this Part, unless there is anything repugnant in the subject or context,— **Definitions.**

(1) "native passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as one of the crew, but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa or a child under one year of age, and in the computation of passengers for any of the purposes of this Part two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger;

(2) "native passenger ship" means, save as otherwise provided in this Part, a ship carrying more than thirty native passengers;

(3) "pilgrim" means a Muhammadan passenger going to, or returning from, the Hedjaz, but it does not include a child under one year of age, and, in the computation of pilgrims for all or any of the purposes of this Act, the Governor General in Council may, by notification in the Gazette of India, direct that two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one pilgrim.

Explanation I.—A Muhammadan passenger who has embarked with the intention of going to the Hedjaz but is returning without having actually landed there shall be deemed to be a pilgrim for the purposes of this Act.

Explanation II.—Every passenger, whether a pilgrim or not, on board a pilgrim ship shall be deemed to be a pilgrim for the purposes of this Part;

(4) "pilgrim ship" means a ship conveying or about to convey pilgrims from or to any port in British India to or from any port in the Red Sea other than Suez:

Provided that no ship carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the ship shall be deemed to be a pilgrim ship within the meaning of this Act.

Explanation.—A pilgrim of the lowest class is a pilgrim for whom no separate accommodation in any cabin, state room or saloon is reserved;

(5) "voyage" means the whole distance between the ship's port or place of departure and her final port or place of arrival;

(*Part II.—Native Passenger Ships and Pilgrim Ships.*)

(6) "Chief Customs officer" means the chief executive officer of sea-customs in any port or place to which this Part applies.

General Provisions as to Native Passenger and Pilgrim Ships.

Places appointed by the Government.

150. (*1*) A native passenger ship shall not, nor shall a pilgrim ship, depart or proceed from, or discharge native passengers or pilgrims at, as the case may be, at any port or place within British India other than a port or place appointed[1] in this behalf by the Local Government for native passenger ships or pilgrim ships, as the case may be.

(*2*) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a native passenger or pilgrim, as the case may be, except at some other port or place so appointed.

Notice to be given of day of sailing.

151. (*1*) The master, owner or agent of a native passenger or pilgrim ship so departing or proceeding shall give notice to an officer, appointed in this behalf by the Local Government, that the ship is to carry native passengers or pilgrims and of her destination and of the proposed time of sailing.

(*2*) The notice shall be given—

(*a*) in the case of a native passenger ship, not less than twenty-four hours before that time;

(*b*) in the case of a pilgrim ship, at the original port of departure, if in British India, and in other cases at the first port at which she touches in British India, not less than three days, and at all other ports not less than twenty-four hours, before that time.

Power to enter on and inspect ship.

152. After receiving the notice, the officer or a person authorised by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board.

Ship not to sail without two certificates.

153. (*1*) A ship intended to carry native passengers or pilgrims shall not commence a voyage from a port or place appointed under this Part, unless the master holds two certificates to the effect mentioned in the two next following sections.

(*2*) The officer whose duty it is to grant a port clearance for the ship shall not grant it unless the master holds those certificates.

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[1] For appointing the ports of Bombay and Karachi for pilgrim ships, *see* Bombay Government Gazette, 1925, Pt. I, p. 1239.

Contents of certificate A.

154. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and—

(*a*) in the case of a native passenger ship, the number of passengers which she is capable of carrying;

(*b*) in the case of a pilgrim ship, the number of pilgrims of each class which she is capable of carrying.

Contents of certificate B.

155. The second of the certificates (hereinafter called "certificate B") shall state—

(*a*) the voyage which the ship is to make and the intermediate ports (if any) at which she is to touch;

(*b*) that she has the proper complement of officers and seamen;

(*c*) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for native passengers or pilgrim ships, as the case may be, have been placed on board of the quality prescribed, properly packed, and sufficient to supply the native passengers or pilgrims on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale;

(*d*) that the master holds certificate A;

(*e*) in the case of a native passenger ship, if the ship is to make a short voyage as hereinafter defined in a season of foul weather and to carry upperdeck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;

(*f*) in the case of a native passenger ship, if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in the prescribed manner;

(*g*) in the case of a pilgrim ship, that she is propelled principally by steam and that she is of the tonnage and steam power (if any) prescribed;

(*h*) in the case of a pilgrim ship, if she is to carry more than one hundred pilgrims, that she has on board the medical officer or officers required by this Part and the prescribed attendants; and

(i) such other particulars, if any, as may be prescribed for native passenger or pilgrim ships, as the case may be.

Supply by passengers of their own food.

156. If an officer appointed in this behalf by the ~~Local Government~~ Central Government is satisfied that a native passenger or pilgrim has brought on board a native passenger or pilgrim ship for his own use food of the quality and in the quantity prescribed, the requirements of this Part, respecting the supply of food for passengers or pilgrims, shall not apply so far as regards the supply of food for that passenger or pilgrim.

Grant of certificates.

157. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 151 who is hereinafter referred to as the certifying officer.

Substitute for certificate A.

158. Where the master of a ship produces to the certifying officer one of the certificates of survey referred to in sections 136 and 144 in respect of the ship in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed, the certifying officer may, if the particulars required by section 151 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Part.

Survey of ship.

159. (1) After receiving the notice required by section 151 the certifying officer may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is in their opinion seaworthy and properly equipped, fitted and ventilated for the service on which she is to be employed:

Provided that he shall not cause a ship holding one of the certificates of survey referred to in Part III to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the service on which she is to be employed.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the service on which she is to be employed, the expense of the survey shall be paid by ~~the Local~~ Government.

(Part IV.—Native Passenger Ships and Pilgrim Ships.)

Discretion as to grant of certificate.

160. (*1*) The certifying officer shall not grant a certificate unless he is satisfied that the ship has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the native passengers or pilgrims.

(*2*) Save as aforesaid, and subject to the provisions of sub-section (*3*), it shall be in the discretion of the certifying officer to grant or withhold the certificate.

(*3*) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

Copy of certificates to be exhibited.

161. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Part in respect of the ship, and shall keep those copies so posted up throughout the voyage.

Penalty for ship unlawfully departing or receiving passengers on board.

162. (*1*) If a native passenger or pilgrim ship departs or proceeds on a voyage from, or discharges native passengers or pilgrims at, any port or place within British India in contravention of the provisions of this Part, or if a person is received as a native passenger or pilgrim on board any such ship in contravention of the provisions of this Part, the master or owner shall, for every native passenger or pilgrim carried in the ship or for every native passenger or pilgrim so discharged or received on board, be liable to a fine which may extend to one hundred rupees or to imprisonment for a term which may extend to one month, or to both:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

(*2*) The ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Part by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Part, with all costs, has been enforced, under the provisions of this Part.

Penalty for opposing entry on, or inspection of, ships.

163. If a person impedes or refuses to allow any entry or inspection authorised by or under this Part, he shall be liable to a fine which may extend to five hundred rupees for each offence, or to imprisonment for a term which may extend to three months, or to both.

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Penalty for not exhibiting copy of certificates.

164. If the master or owner of a native passenger or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of this Part with respect to the posting of copies of certificates, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Penalty for fraudulent alteration in ship after certificate obtained.

165. If the master of a native passenger or pilgrim ship after having obtained any of the certificates mentioned in this Part fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her native passengers or pilgrims, as the case may be, or other matters to which the certificate relates, he shall be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

Penalty for failing to supply native passengers or pilgrims with prescribed provisions.

166. If the master of a native passenger or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger or pilgrim the prescribed allowance of food, fuel and water, as required by the provisions of this Part, he shall be liable to a fine which may extend to twenty rupees for every native passenger or pilgrim who has sustained detriment by the omission.

Penalty for having excessive number of passengers on board.

167. (1) If a native passenger or pilgrim ship has on board a number of native passengers or pilgrims which is greater than the number allowed for the ship by or under this Part, the master and owner shall, for every such passenger or pilgrim over and above that number, be each liable to a fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger or pilgrim.

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorised in this behalf by the ~~Local Government~~ G. G. in Council may cause all native passengers or pilgrims over and above the number allowed by or under this Part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Part, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

168. If the master of a native passenger or pilgrim ship lands any native passenger or pilgrim at any port or place other than the port or place at which the native passenger or pilgrim may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Penalty for landing native passenger or pilgrim at a place other than that at which he has contracted to land

169. If a native passenger or pilgrim ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the native passengers or pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

Penalty for making voyage in contravention of contract

170. (1) The Chief Customs-officer, or other officer, if any, appointed by the ~~Local Government~~ G. G. in Council in this behalf, at any port or place within British India at which a native passenger or pilgrim ship touches or arrives, shall, with advertence to the provisions of this Part, send any particulars which he may deem important respecting the native passenger or pilgrim ship and the native passengers or pilgrims carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the native passengers or pilgrims or any of them embarked or are to be discharged.

Information to be sent to ports of embarkation and discharge

(2) The Chief Customs-officer, or other officer, if any, appointed by the ~~Local Government~~ G. G. in Council in this behalf, at any port or place in British India at which a ship to which this Part applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of native passengers or pilgrims and other matters have been complied with.

171. In any proceeding for the adjudication of any penalty incurred under this Part, any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any

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person lawfully exercising consular authority on behalf of His Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is held.

Authority to institute proceedings for penalties.

172. The penalties to which masters and owners of native passenger and pilgrim ships are made liable by this Part shall be enforced only on information laid at the instance of a certifying officer or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

Appointment of officers.

173. The ~~Local Government~~ shall appoint such persons as ~~it~~ thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Part or may be conferred and imposed thereunder.

Special Provisions relating to Native Passenger Ships.

Definitions.

174. (1) "Long voyage" means, subject to the provisions of this Part relating to native passenger ships, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port.

(2) "Short voyage" means, subject to the provisions of this Part relating to native passenger ships, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port.

Power to declare what shall be deemed "seasons of fair weather", "seasons of foul weather" and "long voyages" and "short voyages".

175. The Governor General in Council may declare, by notification in the Gazette of India, what shall be deemed to be, for the purposes of this Part relating to native passenger ships, "seasons of fair weather" and "seasons of foul weather", and, for sailing ships and steam ships, respectively, "a long voyage" and "a short voyage".

Space to be available for passengers.

176. (1) For seasons of fair weather, a native passenger ship performing a short voyage shall, subject to the provisions of this Part, contain in the between decks at least six superficial feet and thirty six cubic feet of space available for every between decks passenger, and on the upper deck at least four superficial feet available for each such passenger and six superficial feet available for each upper deck passenger.

(2) For seasons of foul weather, a native passenger ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain

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in the between decks at least twelve superficial feet and seventy-two cubic feet of space available for every between decks passenger, and on the upper deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper deck passenger.

(3) For seasons of foul weather, a native passenger ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage shall, subject as aforesaid, contain in the between decks at least nine superficial feet and fifty four cubic feet of space available for every between decks passenger, and on the upper deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) In seasons of foul weather a native passenger ship shall not carry upper deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

177. If a native passenger ship performing a short voyage takes additional native passengers on board at an intermediate port or place, the master shall obtain from the certifying officer at that port or place a supplementary certificate stating— **Ship taking additional passengers at intermediate place.**

(a) the number of native passengers so taken on board, and

(b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship have been placed on board, of the quality prescribed, properly packed and sufficient to supply the native passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed:

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her, have been placed on board, of the quality prescribed by the rules, properly packed and sufficient to supply the full number of native passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

178. When the ship after performing a short voyage reaches her final port or place of arrival, the master shall notify to such officer as the Local Government appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage. **Deaths on voyage.**

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Space to be available for passengers.

179. *(1)* A native passenger ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

(2) A native passenger ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage shall, subject as aforesaid, contain in the between decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

Statements concerning passengers.

180. The master of a native passenger ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the native passengers and the number of the crew, and shall deliver them to the certifying officer, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

Deaths on voyage.

181. The master of any such ship shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any native passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place where it may be intended to land native passengers, and before any passenger leaves the ship, produce the statement with any additions made thereto to a person lawfully exercising consular authority on behalf of His Majesty at the port or place, or to the Chief Customs-officer thereat, or the certifying officer, if any, appointed there.

Ship taking additional passengers at intermediate place.

182. *(1)* In either of the following cases, namely:—

(a) if, after the ship has departed or proceeded on a long voyage, any additional native passengers are taken on board at a port or place within British India appointed under this Part for the embarkation of native passengers, or

(b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional native passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

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(2) All the foregoing provisions of this Part with respect to certificate B and statements concerning native passengers shall be applicable to any certificate granted or statement made under this section.

183. (1) A ship carrying native passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam. Certain ships to be propelled by steam.

(2) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

184. (1) A ship carrying more than one hundred native passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in the prescribed manner. Certain ships to carry medical officer.

(2) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

185. (1) A ship carrying native passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health. Ships carrying passengers to or from ports in Red Sea to touch at Aden.

(2) If the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden or leaves that port without having obtained a bill of health under this section, he shall for every such offence be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

(3) If, in the case of any such ship as is referred to in this section, the master or the medical officer, if any, of the ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks or omits or neglects to obey any rule under this Part applicable to the ship, he shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

186. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of native passengers than the number allowed for the ship by or under this Part, and may refuse to grant it if the requirements of any rule under this Part are not complied with on board the ship. Bill of health at Aden.

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Bond where ship clears for port in Red Sea.

187. In the case of a ship carrying native passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(*a*) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty native passengers, and

(*b*) that the master and medical officer (if any) of the ship shall on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty native passengers, comply with the provisions of this Part and of such rules relating to ships carrying native passengers between ports in British India and ports in the Red Sea as the Governor General in Council may make under this Part.

Power for Local Government to direct medical inspection of passengers.

188. (*1*) The Local Government may direct that no native passenger shall be received on board any ship, or any ship of a specified class, carrying native passengers from any port in British India to any port in the Red Sea, unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

(*2*) If, in the opinion of the officer making an inspection under this section, a native passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

(*3*) If the master of any such ship knowingly receives on board the ship any person in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each person so received, or to imprisonment which may extend to three months, or to both.

Penalty for not complying with requirements as to statements concerning passengers.

189. If a master fails to comply with any of the requirements of section 180 or section 181 as to the statements concerning native passengers, or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate

as is mentioned in section 177 or to report deaths as required by section 178 or to obtain any such fresh certificate, or to make any statement of the number of additional native passengers, as is mentioned in section 182, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both. **and certain other matters.**

Penalty for bringing passengers from foreign port in excess of authorised number.

190. If a ship carrying native passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Part or than the number allowed by the licence or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every native passenger in excess of that number, be each liable to a fine which may extend to twenty rupees.

Power for Governor General in Council and Local Government to make rules.

191. (*1*) The Governor General in Council may make rules[1] consistent with this Part to regulate, in the case of any native passenger ship or class of such ships all or any of the following matters, namely:—

(*a*) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water;

(*b*) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

(*c*) the licensing and appointment of medical officers in cases where they are required by this Part to be carried;

(*d*) the boats, anchors and cables to be provided on board;

(*e*) the instruments for purposes of navigation to be supplied;

(*f*) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires;

(*g*) the provision of appliances for saving life and of means for making signals of distress and the supply of lights inextinguishable in water and fitted for attachment to lifebuoys;

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Bond where ship clears for port in Red Sea.

187. In the case of a ship carrying native passengers from any port in British India other than Aden to any port in the Red Sea the officer whose duty it is to grant a port clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(*a*) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty native passengers, and

(*b*) that the master and medical officer (if any) of the ship shall on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty native passengers, comply with the provisions of this Part and of such rules relating to ships carrying native passengers between ports in British India and ports in the Red Sea as the Governor General in Council may make under this Part.

Power for Local Government to direct medical inspection of passengers.

188. (*1*) The ~~Local Government~~ G. G. in Council may direct that no native passenger shall be received on board any ship, or any ship of a specified class, carrying native passengers from any port in British India to any port in the Red Sea, unless and until the passenger has been inspected, at such time and place, and in such manner, as the ~~Local Government~~ may fix in this behalf, by a medical officer to be appointed by ~~that Government~~ for the purpose.

(*2*) If, in the opinion of the officer making an inspection under this section, a native passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

(*3*) If the master of any such ship knowingly receives on board the ship any person in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each person so received, or to imprisonment which may extend to three months, or to both.

Penalty for not complying with requirements as to statements concerning pass—

189. If a master fails to comply with any of the requirements of section 180 or section 181 as to the statements concern— passengers, or wilfully makes any fal— statement —

as is mentioned in section 177 or to report deaths as required by section 178 or to obtain any such fresh certificate, or to make any such statement of the number of additional native passengers, as is mentioned in section 182, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both

and certain other matters

Penalty for bringing passengers from foreign port in excess of authorised number

190 If a ship carrying native passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Part or than the number allowed by the licence or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every native passenger in excess of that number, be each liable to a fine which may extend to twenty rupees

Power for Governor General in Council and Local Government to make rules.

191. (*1*) The Governor General in Council may make rules[1] consistent with this Part to regulate, in the case of any native passenger ship or class of such ships all or any of the following matters, namely —

(*a*) the scale on which food fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water,

(*b*) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency,

(*c*) the licensing and appointment of medical officers in cases where they are required by this Part to be carried,

(*d*) the boats, anchors and cables to be provided on board

(*e*) the instruments for purposes of navigation to be supplied,

(*f*) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires,

(*g*) the provision of appliances for saving life and of means for making signals of distress and the supply of lights inextinguishable in water and fitted for attachment to lifebuoys,

(*h*) the functions of the master, medical officer (if any) and other officers of the ship during the voyage,

(*i*) the access of between decks passengers to the upper deck, ~~and~~

k. (*l*) generally, to carry out the purposes of this Part

1 For rules for the carriage of petroleum in Native Passenger ships *see* Gen. R and O, Vol V, p 443

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(2) The Local Government may make rules consistent with this Part to regulate in the case of any native passenger ship or class of such ships,—

(a) the local limits within which and the time and mode at and in which passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf, and

(b) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

(2) In making a rule under this section ~~the authority making it~~ the G.G. in Council may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(3) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

Power to prescribe space to be available for passengers.

192. The Governor General in Council may by order prescribe in the case of any native passenger ship or class of such ships and for all or any voyages the number of superficial or of cubic feet of space to be available for native passengers, and the order shall be alternative to or override, as the Governor General in Council may direct, the requirements on that subject of this Part so far as they apply to that ship or class of ships.

Special Provisions regarding Pilgrim Ships.

Space to be provided for pilgrims.

193. (1) The Governor General in Council may by order determine the number of superficial and cubic feet of space (not being less than the space for the time being required for passengers under this Act) to be available in the between decks for pilgrims of each class respectively, on board pilgrim ships.

(2) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper deck as is not required for the airing space of the crew or for permanent structures:

Provided that the upper deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim of the age of twelve years or upwards on board.

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(3) Subject as aforesaid and to any rules which may be made under this Act, such space may be allotted among the different classes of pilgrims in such proportion as may be thought fit:

Provided that not less space shall be allotted to any one class than will provide six superficial feet of space available for each pilgrim of the age of twelve years or upwards of that class on board.

194. The baggage of all pilgrims shall be disposed of on board in such manner as may be prescribed. Disposal of pilgrims' baggage.

195. There shall be a regularly appointed hospital on board every pilgrim ship offering such conditions of security, health and space, and capable of accommodating such number, not exceeding five per cent. of the pilgrims embarked, as may be prescribed. Hospital accommodation.

196. The master of every pilgrim ship departing or proceeding from any port or place in British India shall sign a statement in duplicate in the prescribed form specifying the total number and the number of each sex of all the pilgrims embarked and the number of the crew and such other particulars as may be prescribed, and shall deliver both copies to the certifying officer who shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one of the copies. Statement concerning pilgrims to be delivered before ship departs.

197. The master of every pilgrim ship shall note in writing on the copy of the statement returned to him under the last foregoing section and on any additional statement to be made under the next following section the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination, or at any port or place at which it may be intended to land pilgrims, and before any pilgrims disembark, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of His Majesty at the port or place or to the Chief Customs officer thereat or the certifying officer (if any) appointed there. Deaths on voyage.

198. (1) In either of the following cases, namely:— Pilgrim ship taking additional pilgrims at intermediate place.

(a) if, after a pilgrim ship has departed or proceeded on her voyage, any additional pilgrims are taken on board at a port or place within British India appointed under this Act for the embarkation of pilgrims, or

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(*b*) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall furnish an additional statement, in duplicate in the prescribed form, respecting such additional pilgrims.

(2) All the foregoing provisions of this Part with respect to certificate B, and the statement concerning pilgrims to be signed and delivered by the masters of pilgrim ships, shall be applicable to any certificate granted or statement furnished under this section.

Statement concerning pilgrims to be delivered before pilgrims disembark in British India.

199. The master of every pilgrim ship arriving at any port or place in British India at which it may be intended to discharge pilgrims shall, before any pilgrims disembark, deliver a statement signed by him, specifying the total number and the number of each sex of all the pilgrims on board and the number of the crew, and such other particulars as may be prescribed, to the certifying officer appointed thereat.

Pilgrim ships to be propelled principally by steam and to be of certain tonnage and steam-power.

200. (1) Every pilgrim ship shall be propelled principally by steam, and shall be of the tonnage and steam-power (if any) prescribed.

(2) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

Certain pilgrim ships to carry medical officers and attendants.

201. (1) Every pilgrim ship carrying more than one hundred pilgrims shall have on board a medical officer licensed as prescribed, and, if the number carried exceed one thousand, a second medical officer similarly licensed and also in all cases such attendants as may be prescribed.

(2) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months or to both.

Medical officers' diaries and reports.

202. The medical officer or officers of every pilgrim ship shall keep such diaries and shall submit such reports or other returns, as may be prescribed.

Pilgrim ships to touch at Aden on the outward voyage.

203. (1) [1][Any officer empowered by the Local Government in this behalf may, by order in writing, require any pilgrim ship, proceeding from any port in British India other than Aden to any port in the Red

[1] These words were substituted for the words "Every pilgrim ship proceeding from any port in British India other than Aden to any port in the Red Sea shall touch at Aden and shall not leave" by s. 2 of the Indian Merchant Shipping (Second Amendment) Act, 1925 (11 of 1925).

Sea, to touch at Aden and not to leave] that port without having obtained from the proper authority a certificate stating whether any case of cholera has or has not occurred on board since the ship left the port of last departure.

(2) If the master of any such ship, [1][in respect of which an order has been made under this section] without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden or leaves that port without having obtained the certificate required [2][under this section], he shall for every such offence be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

When authority at Aden may refuse to let ship leave.

204. [3][Where any pilgrim ship touches at Aden in compliance with an order made under section 203, the authority at Aden empowered to grant the certificate required under that section] may refuse to permit the ship to leave that port if the provisions of this Part or any rule thereunder are not complied with on board such ship.

Bond where pilgrim ship proceeds on outward voyage.

205. In the case of every pilgrim ship proceeding from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port clearance shall not grant the clearance unless or until the master, owner or agent and two sureties resident in British India have executed, in favour of the Secretary of State for India in Council, a joint and several bond, for the sum of five thousand rupees, conditioned—

(a) that the ship (if the voyage do not commence at Aden) shall [4][if so required by an order under section 203] touch at Aden on the outward voyage and there obtain the certificate required [5][under that section], and

(b) that the master and medical officer or officers (if any) shall comply with the provisions of this Part and the rules thereunder.

Medical inspection and permission required before embarkation of pilgrims.

206. (1) No pilgrim shall be received on board any pilgrim ship at any port or place in British India unless and until he has been medically inspected, at such time and place, and in such manner, as the Local

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[1] These words were inserted by s. 2 of the Indian Merchant Shipping (Second Amendment Act, 1925 (11 of 1925).

[2] These words were substituted for the words "by this section", *ibid*.

[3] These words were substituted for the words "the authority at Aden empowered to grant the certificate required under section 203" by s. 3, *ibid*.

[4] These words were inserted by s. 4, *ibid*.

[5] These words were substituted for the words and figures "by section 203", *ibid*.

~~Government~~ Council may fix in this behalf nor until the certifying officer has given permission for the embarkation of pilgrims to commence.

(*2*) If, in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(*3*) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated shall, before being taken on board a pilgrim ship, be disinfected under the supervision of a medical officer appointed by the ~~Local Government~~ G. G. in Council for the purpose in such manner as may be prescribed.

(*4*) If the master of any such ship knowingly receives on board any pilgrim or contaminated article in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim, or fifty rupees for each article so received, or to imprisonment which may extend to three months, or to both.

Medical inspection after embarkation in certain cases.

207. (*1*) If in any case a pilgrim-ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the ~~Local Government~~ G. G. in Council may direct.

(*2*) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

(*3*) If the master of any such ship knowingly keeps on board any pilgrim or article ordered to be removed under this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim, or to fifty rupees for each article, so kept on board, or to imprisonment which may extend to three months, or to both.

Medical inspection of women.

208. So far as may be practicable and subject to any rules which may be made under this Act, the medical inspection of female pilgrims shall be carried out by women.

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Conditions for securing return passages for pilgrims.

[1][**208A.** No pilgrim shall be received on board any pilgrim ship at any port or place in British India for conveyance in the lowest class available on the ship, unless he—

(*a*) is in possession of a return ticket, or

(*b*) has deposited with the prescribed person such sum for the purpose of defraying the cost of a return ticket as the Governor General in Council may specify by notification[2] in the Gazette of India.

Provided that this prohibition shall not apply in the case of any such pilgrim who has made a declaration on oath or affirmation in such form as may be prescribed, before an authority appointed in this behalf by the Local Government, that he does not intend to return to India within three years after the date of declaration.]

Issue and production of tickets and refund of passage money.

209. (*1*) Every pilgrim shall be entitled, on payment of his passage-money and fulfilment of the other prescribed conditions (if any), to receive a ticket in the prescribed form, and shall be bound to produce the same to such officers and on such occasions as may be prescribed, and otherwise to deal with the same in the prescribed manner.

[3][Provided that no pilgrim to whom the prohibition contained in section 208A applies shall be entitled to, or shall be provided with, a ticket other than a return ticket unless he has made the deposit required by that section.]

(*2*) Every pilgrim prevented from embarking under section 206 or removed from the ship under section 207, or otherwise prevented from proceeding [4][shall, subject to any conditions or deductions which may be prescribed, be entitled to the refund of any passage money which he may have paid, and of any deposit which he may have made in compliance with the provisions of section 208A, and if any pilgrim who has paid for a return ticket or made such deposit dies in the Hedjaz or on the voyage thereto or does not return to British India before the expiration of one year from the date on which he paid for the return ticket or made such deposit the person nominated by him in writing in the prescribed manner or if no person has been so

1 This section was inserted by s. 5 of the Indian Merchant Shipping (Second Amendment) Act, 1925 (11 of 1925).

2 For such Notification, *see* Gen. R. and O., Vol. V, p. 446.

3 This proviso was added by s. 6 of the Indian Merchant Shipping (Second Amendment) Act, 1925 (11 of 1925).

4 These words were substituted for the words "shall be entitled to the refund of any passage money he may have paid, subject to any conditions or deductions which may be prescribed", *ibid.*

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nominated, his legal representative or the pilgrim himself, as the case may be, shall, if the pilgrim was in possession of a return ticket, be entitled to the refund, subject as aforesaid of half the passage money paid by the pilgrim or, if the pilgrim had made a deposit, be entitled to the refund unconditionally of the whole of the deposit made by him.]

Cost of return journey of pilgrims on ships other than those for which return ticket is available.

[1][209A. (1) Port clearance shall not be granted from any port in British India to any pilgrim ship unless or until the master, owner or agent and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond for the sum of ten thousand rupees conditioned that, if any pilgrim who has been carried to the Hedjaz by that ship with a return ticket issued in British India within the previous eighteen months is, owing to his inability to obtain accommodation on a ship for which the return ticket is available detained at Jeddah for a longer period than twenty five days from the day on which he presents his ticket to the British Consul at Jeddah notifying his desire to embark for the return passage, the master owner or agent aforesaid shall pay to the Local Government in respect of such pilgrim such sum not exceeding double the whole sum received by such master owner or agent in respect of the return ticket as the Local Government claims as the cost of repatriating the pilgrim together with a sum of one rupee for each day after the expiry of the twenty five days aforesaid during which the pilgrim has been detained at Jeddah.

Provided that for the purpose of computing the said period of twenty-five days, no period shall be taken into account during which the ship is prevented from carrying pilgrims on the return passage by reason of the port of Jeddah having been declared by proper authority to be infected or by reason of war disturbance or any other cause not arising from any act or default of the master owner or agent.

(2) A certificate of such detention purporting to be made and signed by the British Consul at Jeddah shall be received in evidence in any Court in British India without proof of the signature or of the official character of the person who has signed the same.]

Notice of sailing of pilgrim ship.

[2][209B. (1) The master owner or agent of any ship which is intended to sail on a voyage as a pilgrim ship from any port or place in

1 This section was inserted by s. 7 of the Indian Merchant Shipping (Second Amendment) Act, 1925 (11 of 1925).

2 Sections 209B, 209C, 209D were inserted by s. 2 of the Indian Merchant Shipping (Amendment) Act, 1927 (14 of 1927) ([illegible]en notified).

British India shall, before advertising such ship for the conveyance of pilgrims or offering to convey any pilgrim by such ship or selling or permitting any person to sell a passage ticket to any pilgrim for conveyance by such ship, supply to the prescribed officer (hereinafter referred to as the Pilgrim Officer) at the port or place from which the ship is to commence the voyage, and at each port or place in British India at which it is to touch for the purpose of embarking pilgrims, full particulars as to the class, tonnage and age of the ship, the maximum number of passage tickets of each class to be issued, the maximum price of each class of ticket, the date on which the ship is to sail from that port or place, the ports, if any, at which it is to touch, the place of its destination, and the probable date of its arrival thereat.

(2) The master, owner or agent shall supply to the Pilgrim Officer, within three days from the date of demand, such further information in regard to the matters mentioned in sub-section (*1*) as that officer may in writing demand from him.

(3) Within such time as may be prescribed before the date of the sailing of any such ship from any port or place in British India, the master, owner or agent of the ship shall advertise at such port or place in such manner as may be prescribed—

(*a*) the place of destination of the ship,

(*b*) the proposed date of sailing from that port or place which shall be the date communicated to the Pilgrim Officer under sub-section (*1*), and

(*c*) the price of each class of passage tickets, which shall not be in excess of the price communicated to the Pilgrim Officer under sub-section (*1*).

(4) Any master, owner or agent who—

(*a*) without reasonable cause, the burden of proving which shall lie upon him, fails or refuses to supply any particulars or information which he is by or under this section required to supply, or supplies false particulars or information, or

(*b*) advertises any ship for the conveyance of pilgrims, or offers to convey pilgrims by any ship, or sells or promises or permits any person to sell passage tickets to pilgrims for conveyance by any ship, without having first supplied the particulars required by sub-section (*1*) and in accordance with the provisions of that sub-section, or

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(c) advertises a date of sailing from any port or place other than the date communicated to the Pilgrim Officer at that port or place under sub section (1) or advertises a price for passage tickets at that port or place in excess of the price so communicated, or

(d) offers to convey pilgrims by any ship from any port or place in British India or sells or promises or permits any person to sell passage tickets to pilgrims for conveyance by a ship from any such port or place without having made advertisement, as required by sub section (3), of the matters specified in that sub section or

(e) sells or permits any person to sell to any pilgrim any passage ticket at a price in excess of the price communicated to the Pilgrim Officer under sub section (1)

shall be punishable with fine which may extend to two thousand rupees

Compensation for delaying sailing

209C (1) If the pilgrim ship fails to proceed from any port or place on the date advertised under sub section (3) of section 209B as the date of sailing therefrom the master owner or agent shall become liable to pay as compensation to each pilgrim who has paid his passage money on or before such date the sum of one rupee for each completed day during which the sailing of the ship is delayed after that date

Provided that such compensation shall not be payable in respect of any period during which the departure of the ship is impossible owing to any cause not arising from the act or default of the master, owner or agent and the burden of proving such cause shall lie on such master owner or agent

Provided further that where compensation has been paid or has become payable to any pilgrim in respect of delay in the sailing of the ship from any port or place and the sailing of the ship from any other port or place is thereafter delayed beyond the date advertised in that behalf the pilgrim shall be entitled to compensation only in respect of any period by which the duration of such further delay exceeds the duration of the delay in respect of which he has already received or become entitled to compensation

(2) In the event of such failure, the master owner or agent shall be bound forthwith to inform the Pilgrim Officer at the port or place at which the delay occurs of the number of passage tickets of each class

which have been issued for the voyage on or before the advertised date of sailing

(3) Any sum payable as compensation under sub section (1) shall be paid on behalf of the pilgrims entitled thereto to the Pilgrim Officer at the port or place at which the delay occurs on receipt by the master, owner or agent of a notice from that officer specifying the sum payable, and that officer shall in such manner as may be prescribed, pay to each such pilgrim the compensation paid in respect of his detention

Provided that, if an objection is made by the master, owner or agent that the sum specified in any such notice or any part of such sum is not payable by him the sum paid or, as the case may be, the balance thereof remaining after payment to the pilgrims entitled thereto of compensation the right to which is not in dispute, shall be held in deposit until the objection has been decided

Provided, further, that, if for any reason the compensation due to any pilgrim cannot be paid to him at the time of embarkation or at or before the time of his disembarkation at the port of his destination, the sum so remaining unpaid shall be made over to such authority administering any fund maintained for the assistance of pilgrims as the Local Government may, by general or special order, designate in this behalf

(4) If the master owner or agent objects that the sum specified in the notice issued under sub section (3) or any part thereof is not payable by him, he may, at the time of payment of such sum, give to the Pilgrim Officer notice of his objection, together with a statement of the grounds thereof, and the Pilgrim Officer shall thereupon either cancel or modify the aforesaid notice in accordance with the objection and refund the sum held in deposit under sub section (3), or refer the objection for decision to a Presidency Magistrate or a Magistrate of the first class exercising jurisdiction in the port or place at which the ship is delayed, the decision of the Magistrate on such reference shall be final, and there shall be refunded to the master owner or agent any amount allowed to him by such decision

(5) On the failure of any pilgrim ship to proceed from any port or place on the date advertised under sub section (3) of section 209B as the date of sailing therefrom, the Pilgrim Officer at that port or place shall forthwith give notice of such failure to the officer authorised to grant port clearance to ships thereat, and such officer shall refuse port clearance to the pilgrim ship until the master, owner or agent produces

to him a certificate of the Pilgrim Officer that all sums payable by way of compensation under this section up to the day on which the ship is to proceed have been paid.

Substitution of ships.

209D. Notwithstanding anything contained in section 209B or section 209C, where any ship which has been advertised under sub-section *(3)* of section 209B for the conveyance of pilgrims has been or is likely to be delayed beyond the advertised date of sailing, the owner or agent may, with the permission in writing of the Pilgrim Officer, substitute for it any other ship which is of the same class and is capable of carrying not less than the same number of pilgrims of each class, and on such permission being given the advertisement shall be deemed to have been made in respect of the ship so substituted, and all the provisions of those sections shall apply accordingly in respect of such ship.]

Sanitary taxes payable by master of pilgrim ship.

210. The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited if and so far as such taxes are included in the cost of the tickets issued to the pilgrims.

Penalty on master for not complying with requirements as to statements concerning pilgrims and certain other matters.

211. If the master of a pilgrim ship fails to comply with any of the requirements of section 196, section 197 or section 199 as to the statements concerning pilgrims, or wilfully makes any false entry or note in or on any such statement, or fails to obtain any such fresh certificate or to make any such statement of the number of additional pilgrims as is mentioned in section 198, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

Penalty on master or medical officer of pilgrim ship disobeying rules under this Act.

212. If the master or the medical officer (if any) of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks or omits or neglects to obey, any rule under this Part, he shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

Power for Governor General in Council and Local Government to make rules.

213. *(1)* The Governor General in Council may make rules to regulate all or any of the following matters, namely:—

(*a*) the boats, anchors and cables to be provided on board pilgrim ships;

(*b*) the instruments for purposes of navigation to be supplied;

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(c) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent and deal with such fires;

(d) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys;

(e) the fittings and other appliances to be provided in the upper and between decks for the comfort and convenience of pilgrims;

(f) the scale on which, and the manner in which food, fuel and water are to be supplied to pilgrims, and the quality of such food, fuel and water;

(g) the quality, quantity and storage of the cargo to be carried;

(h) the allotment of the upper deck space between the various classes of pilgrims;

(i) the amount and distribution of the baggage of pilgrims;

(j) the nature and the extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

(k) the form of the statements to be furnished by the master under sections 196 and 199, and the particulars to be entered therein;

(l) the tonnage and steam power to be required in the case of pilgrim ships, and the voyages to which, and seasons at which, such rules shall respectively apply;

(m) the licensing and appointment of medical officers and other attendants in cases where they are required by this Part to be carried and the diaries, reports and other returns to be kept or submitted by such medical officers;

(n) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship;

(o) the manner in which, and the persons by whom, the medical inspection of women shall be carried out;

[1][(oo) the manner in which deposits shall be made for the purposes of section 208A, and any matter in respect of which provision

1 This clause was inserted by s. 8 of the Indian Merchant Shipping (Second Amendment) Act, 1925 (11 of 1925).

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is, in the opinion of the Governor General in Council, necessary or expedient for the purpose of giving effect to the provisions of that section;]

(p) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof;

(q) the refund of passage money [1][and of deposits made under section 208A] to intending pilgrims who may not be permitted to embark or who having embarked may be removed from the ship under the powers conferred by this Part or who may otherwise for any unavoidable cause be prevented from proceeding in any pilgrim ship [2][and the refund of passage money or deposits to the nominees and legal representatives of pilgrims who have died in the Hedjaz or on the voyage thereto or to pilgrims who do not return to British India within the period provided in section 209 or to the nominees of such pilgrims and the manner in which persons shall be nominated for the purpose of entitling them to such refunds;]

[3][(qq) the period after which unclaimed passage money and deposits liable to be refunded shall lapse to Government, and the purposes to which sums so lapsing shall be applied;]

[4][(qqq) the manner in which the proposed date of sailing shall be advertised under section 209B, the appointment of Pilgrim Officers for the purposes of that section and sections 209C and 209D, the manner in which payment shall be made under section 209C to pilgrims and to the Pilgrim Officer, and the procedure to be followed by masters, owners or agents and by Pilgrim Officers and Magistrates in proceedings under that section.]

(r) the functions of the master, medical officer or officers (if any) and other officers during the voyage; ~~and~~

(s) generally, to carry out the provisions of this Part relating to pilgrim ships.

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[1] These words were inserted by s. 8 of the Indian Merchant Shipping (Second Amendment) Act, 1925 (11 of 1925).

[2] These words were added by s. 8, ibid.

[3] This clause was inserted by s. 8, ibid.

[4] This clause was inserted by s. 3 of the Indian Merchant Shipping (Amendment) Act, 1927 (14 of 1927) (*when notified*).

~~(2) The Local Government may make rules consistent with this Act to regulate—~~

~~(a) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf; and~~ omitted

~~(b) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board.~~

(3) In making a rule under this section the ~~authority making it~~ G. G. in Council may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

PART V

SAFETY

Prevention of Collisions

214. (1) The ~~Local Government~~ G. G. in Council may appoint persons to inspect, in any port, ships to which the regulations for preventing collisions at sea issued under the provisions of the Merchant Shipping Acts, or any other similar law for the time being in force may apply, for the purpose of seeing that such ships are properly provided with lights and with the means of making fog signals in pursuance of such regulations or law. Appointment of inspectors of lights and fog signals.

(2) Every person so appointed shall in the port for which he is appointed have for the purposes of such inspection the following powers—

(a) he may go on board any ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;

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(b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make,

(c) he may require and enforce the production of all books, papers or documents which he considers important, and

(d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination

Notice of deficiency to be given to master or owner by such inspectors

215. If any person so appointed finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same

Ship not to be cleared by Customs collector till inspector certifies it is properly provided with lights etc

216. Every notice so given shall be communicated in such manner as the ~~Local Government~~ G. G. in Council may direct to the Customs-collector at any port from which such ship may seek to clear, and no Customs collector to whom such communication is made shall grant such ship a port clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law

Draught of Water and Load line.

Marking of deck lines

217. (1) Save as otherwise provided in this Act, every ship, British or foreign, while in any port in British India shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water

(2) The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking

(3) The lines shall be white or yellow on a dark ground, or black on a light ground

(4) In this Part the expression "amidships" means the middle of the length of the loadwater line as measured from the fore side of the stem to the aft side of the stern post

(*Part V.—Safety.*)

Marking of load lines.

218. (*1*) Save as otherwise provided in this Act, the master of every ship, British or foreign, while in any port in British India shall, before the time hereinafter mentioned, mark outside upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(*2*) The centre of the disc shall be placed at such level below the deck line marked under the provisions of this Part or of the Merchant Shipping Acts as may be approved by the ~~Local Government~~, and shall indicate the maximum load line in perfectly smooth salt water to which it shall be lawful to load the ship.

(*3*) The position of the disc shall be fixed in accordance with the tables used from time to time by the Board of Trade subject to such allowance as may be necessary in consequence of any difference between the position of the deck line marked under the provisions of this Part or of the Merchant Shipping Acts, and the position of the line from which free board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof, as may from time to time, ~~with the previous approval of the Governor General in Council~~, be sanctioned by the ~~Local Government~~.

(*4*) Any load line marked under the Merchant Shipping Acts or under any enactment of any British Possession regarding which an Order
8 c 60 in Council under section 411 of the [1]Merchant Shipping Act, 1894, exists, and any certificate given in pursuance of these Acts or any such enactment in respect of such marking, shall have the same effect as if it had been marked or given in pursuance of this Part.

Ships with submerged load lines deemed unsafe.

219. If any ship, British or foreign, while in any port in British India is so loaded as to submerge in perfectly smooth salt water the centre of the disc indicating the load line, the ship shall be deemed to be an unsafe ship within the meaning of the provisions hereinafter contained in this Part.

Time of marking load line in case of foreign going vessels.

220. (*1*) When any British or foreign going ship proceeds on any voyage from a port in British India for which the owner is required to enter the ship outwards, the disc indicating the load line shall be marked before so entering her, or, if that is not practicable, as soon afterwards as may be.

[1] Collection of Statutes relating to India, Vol. II.

(*Part I.—Safety.*)

(2) Every person applying for entry of any such ship outwards shall insert in the form of application made to the Customs-collector, a statement in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre, and if default be made in delivering this statement, the Customs-collector may refuse to enter the ship outwards.

(3) The master of every British or foreign-going ship shall enter a copy of this statement in the agreement with the crew before it is signed by any member of the crew, and no shipping-master shall proceed with the engagement of a crew for any such ship until this entry has been made.

(4) The master of every British or foreign-going ship shall enter a copy of this statement in the official log book (if any).

(5) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

Time for marking load line in case of coasting vessels.

221. (1) When a ship which is a coasting vessel within the meaning of the Sea Customs Act, 1878, is required to be marked with the disc VIII of 1878. indicating the load line, she shall be so marked before the ship proceeds to sea from any port.

(2) The master shall also once in every twelve months immediately before the ship proceeds to sea, send or deliver to the Customs-collector, or other principal officer of Customs at such port as the Local Government may appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

(3) The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Customs-collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck lines.

(4) If default be made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be liable to a fine which may extend to one thousand rupees.

(5) When a ship has been marked as required by this section, she shall be kept so marked until notice has been given of an alteration

(Part V.—Safety.)

Penalty for offences relating to marking of load line.

222. (1) If—

(a) any master of a ship neglects to cause his ship to be marked as by this Part required or to keep her so marked, or allows his ship to be so loaded that when in perfectly smooth salt water the centre of the disc is submerged, or

(b) any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate any of the lines or marks prescribed by or under this Part, except in the event of the particulars thereby denoted being lawfully altered, or for the purpose of escaping capture by an enemy,

he shall be liable in respect of each such offence to a fine which may extend to one thousand rupees.

(2) The master of any ship on which any of the marks or lines prescribed by or under this Part is inaccurately placed so as to be likely to mislead, who does not forthwith cause such inaccuracy to be corrected, shall be liable to a fine which may extend to one thousand rupees.

Power to appoint officer to certify position of disc.

223. The ~~Local Government~~ G. G. in Council shall appoint—

(a) a surveyor employed by Lloyd's or by any other society, corporation or association for the survey or registry of shipping approved by the Board of Trade under section 443 of the [1]Merchant Shipping Act, 1894, and specially authorised in this behalf by Lloyd's or by such society, corporation or association, as the case may be, or

(b) an officer specially selected by the ~~Local Government~~ G. G. in Council for the purpose,

to approve and certify on its behalf from time to time the position of any disc indicating the load line and any alteration thereof, and may, ~~with the previous sanction of the Governor General in Council~~, fix the fees to be taken in respect of any such approval or certificate.

Power to make rules.

224. (1) The ~~Local Government~~ G. G. in C. ~~with the previous sanction of the Governor General in Council~~, may make rules—

(a) determining the lines or marks to be used in connection with any such disc as aforesaid in order to indicate the maximum load line under different circumstances and at different seasons, and declaring that the provisions of this Part

[1] Collection of Statutes relating to India, Vol. II.

are to have effect as if any such line were drawn through the centre of the disc,

(*b*) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship whether by painting, cutting or otherwise

(*c*) as to the mode of application for, and form of, certificates under this Chapter, and

(*d*) as to the entry of such certificates, and any other prescribed particulars concerning the draught of water and free board of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and as to delivering copies of such entries

(2) Rules under clause (*a*) of sub section (1) may, with respect to any class or classes of ships,—

(i) declare what shall be deemed to be seasons of fair weather and seasons of foul weather respectively, for any of the purposes of the rules and

(ii) modify the tables referred to in sub section (3) of section 218

Grain Cargoes

Stowage of cargo of grain etc

225 No cargo of which more than one third consists of any kind of grain corn rice paddy pulse seeds nuts or nutkernels (hereinafter referred to as grain cargo) shall be carried on board any British or foreign ship unless the same be contained in bags sacks or barrels, or secured from shifting by boards or bulkheads or otherwise

Penalty for improper stowage of such cargo

226 If the owner or master of any ship or any agent of such owner who is charged with the loading of such ship or the sending her to sea, knowingly allows any grain cargo or part of a grain cargo to be shipped therein for carriage contrary to the provisions of the last foregoing section, he shall be liable to a fine which may extend to three thousand rupees

Savings

Saving for certain ships

227 Nothing in the provisions of this Part relating to the overloading and improper loading of ships or to the marking of deck and load-lines shall apply to—

(i) any sailing ship of less than one hundred and fifty tons employed in plying coastwise between ports situated in India and Ceylon,

(Part V.—Safety.)

(ii) any ship of less than one hundred and fifty tons solely employed in fishing;

(iii) any pleasure yacht;

(iv) any foreign ship not bound to a port in British India for any purpose other than the purpose of embarking or landing passengers or taking in or discharging cargo or taking in bunker coal;

(v) any foreign ship which, if in a port of the United Kingdom, would be entitled to the benefit of a direction of His Majesty in Council under section 445 of the Merchant Shipping Act,
60 1894.

Power to exclude or re-include certain classes of ships.

228. (1) The Local Government with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, exclude from, or bring again within the operation of, all or any of the provisions of this Part relating to the overloading and improper loading of ships or to the marking of deck and load-lines subject to such modifications thereof (if any) as may be specified in the notification, any native craft not square rigged.

(2) The Governor General in Council may, by notification in the Gazette of India, exclude from, or bring again within the operation of, the provisions of this Part relating to the marking of deck and load lines any steam ships of less than one hundred and fifty tons which are employed in plying coastwise between ports situated in India and Ceylon and do not carry cargo.

Unseaworthy Ships.

Every person sending unseaworthy ship to sea liable to penalty.

229. (1) Every person who sends or attempts to send a British ship to sea from any port in British India in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(2) Every master of a British ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be

thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(3) For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

(4) No prosecution under this section shall be instituted except by, or with the consent of, the ~~Local Government~~.

Unseaworthy ships.

230. A ship is 'unseaworthy' within the meaning of this Part when the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight, description and stowage of the cargo, the tackle, sails, rigging, stores, ballast and other equipment are not such as to render her in every respect fit for the proposed voyage or service.

Obligation of owner to crew with respect to seaworthiness.

231. (1) In every contract of service, express or implied, between the *owner of a British ship and the master or any seaman thereof,* and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to secure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state for the voyage during the same.

(2) Nothing in this section shall subject such owner to any liability by reason of such ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending her to sea is reasonable and justifiable.

Detention of unsafe ships by the Local Government.

Power to detain unsafe ship and procedure for detention.

232. (1) Where a British ship in any port to which the ~~Local Government~~ may specially extend this section is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be

provisionally detained for the purpose of being surveyed and either finally detained or released as follows, namely —

(a) The Local Government, if it has reason to believe, on complaint or otherwise, that any such ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed

(b) A written statement of the grounds of such detention shall be forthwith served on the master of such ship

(c) When the Local Government provisionally orders the detention of a ship, it shall either refer the matter to the Court of Survey for the port where the ship is detained, or forthwith appoint some competent person to survey such ship and report thereon, and, on receiving his report, may either order the ship to be released or, if in its opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo as the Local Government thinks necessary for the protection of human life

(d) Before an order for final detention is made a copy of the report shall be served upon the master of the ship and within seven days after such service the owner or master may appeal against such report in the manner prescribed, to the Court of Survey for the port where the ship is detained

(e) Where a ship has been provisionally detained and a person has been appointed under this section to survey such ship, the owner or master of the ship at any time before such person makes that survey may require that he shall take with him as assessor such person as the owner or master may select being a person named in the list of assessors for the Court of Survey or if there is no such list or if it is impracticable to procure the attendance of any person named in such list a person of nautical engineering or other special skill and experience If the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have

no appeal. If the surveyor and assessor differ in their report, the Local Government may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is hereinbefore provided in this section.

(*f*) Where a ship has been provisionally detained, the ~~Local Government~~ may, at any time if ~~it~~ thinks ~~it~~ expedient, refer the matter to the Court of Survey for the port where the ship is detained.

(*g*) The ~~Local Government~~ may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

(2) Any person appointed by the ~~Local Government~~ for the purpose (*in this Act referred to as a detaining officer*) shall have the same power as the ~~Local Government~~ has under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her, and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(3) A detaining-officer shall forthwith report to the ~~Local Government~~ any order made by him for the detention or release of a ship.

(4) A ship detained under this section shall not be released by reason of her British or British Indian register being subsequently closed.

(5) A detaining officer shall have, for the purpose of his duties under this Part, the following powers, namely:—

(*a*) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;

(*b*) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make;

(*c*) he may require and enforce the production of all books, papers or documents which he considers important; and

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(*d*) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Costs of detention and damages incidental thereto.

233. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey. Liability of Government for costs and damages when ship wrongly detained.

234. If a ship is finally detained under this Part, or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to Government its costs of and incidental to the detention and survey of the ship, and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable. Liability of shipowner for costs when ship rightly detained.

235. For the purposes of this Act, the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or any person appointed to represent the ~~Local Government~~ before the Court, shall be deemed to be part of the costs of the detention and survey of the ship. What included in costs of detention and survey.

236. When a complaint is made to the ~~Local Government~~ or a detaining officer that a British ship is unsafe, it shall be in the discretion of ~~such Government~~ or officer (as the case may be) to require the complainant to give security to the satisfaction of ~~such Government~~ or officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned: Power to require from complainant security for costs, etc.

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of ~~such Government~~ or officer frivolous or vexatious, such security shall not be required, and ~~such Government~~ or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Part.

237. Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under Costs, etc., payable by

Government recoverable from complainant.

this Part to pay to the owner of the ship any costs of compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs or is liable to pay in respect of the detention and survey of the ship.

Application to foreign ships of provisions as to detention.

238. When a foreign ship is in a port in British India and is, whilst at that port, unsafe by reason of overloading or improper loading, the provisions of this Part with respect to the detention of ships shall apply to that foreign ship as if she were a British ship, with the following modifications, namely:—

(i) a copy of the order for the provisional detention of the ship shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port in which such ship is detained;

(ii) the consular officer, at the request of the owner or master of the ship, may require that the person appointed by the Local Government to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the Local Government shall cause the ship to be detained or released accordingly, but if they differ, the Local Government may act as if the requisition had not been made, and the owner and master shall have the like appeal to a Court of Survey touching the report of the surveyor as is hereinbefore provided in the case of a British ship; and

(iii) where the owner or master of the ship appeals to the Court of Survey, the consular officer, at his request, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the Local Government.

Delegation of powers to Port Commissioners, etc.

239. (1) The Local Government may, from time to time, by notification in the local official Gazette, delegate either absolutely or subject to such conditions or restrictions as it thinks fit, to any body of Commissioners or trustees appointed for managing the affairs of a port, all or any of the powers, and require the said body to discharge all or any of the functions, of the Local Government under the foregoing sections of this Part, except the power of making rules.

(2) While any such notification remains in force, all costs and damages which would otherwise be recoverable under this Part by or

from the Government shall be recoverable in like manner by or from such body, and such body shall, notwithstanding anything to the contrary contained in any enactment for the time being in force, credit or pay, as the case may be, the amount of any cost or damages so recovered to or from the funds held by them in trust as such body.

Installation of Wireless Telegraphy.

240. The provisions of this Part in regard to the installation of wireless telegraphy on ships registered in British India shall come into force on such [1]date as the Governor General in Council may, by notification in the Gazette of India, direct. Commencement.

[1]**241.** In the provisions of this Part relating to the installation of wireless telegraphy, "passenger steamer" means a steam-ship which carries more than twelve passengers. Definition.

[1]**242.** (*1*) Every sea-going British ship registered in British India, being a passenger steamer or a ship of sixteen hundred tons gross tonnage or upwards, shall be provided with a wireless telegraph installation of the prescribed description, and shall maintain a wireless telegraph service of the prescribed nature and shall be provided with such certificated operators and watchers as may be prescribed: Wireless telegraphy requirements.

Provided that the Governor General in Council may, by notification[2] in the Gazette of India, exempt from the obligations imposed by this section any ships or classes of ships if he is of opinion that, having regard to the nature of the voyages on which the ships are engaged, or other circumstances of the case, the provision of a wireless telegraph installation is unnecessary or unreasonable.

(*2*) If this section is not complied with in the case of any such ship, the master or owner of the ship shall be liable in respect of each offence to a fine which may extend to one thousand rupees.

243. (*1*) The Governor General in Council may appoint officers (hereinafter referred to in this Act as wireless telegraphy inspectors) for the purpose of seeing that the requirements of this Part relating to wireless telegraphy are complied with on board any ship. Appointment and powers of wireless telegraphy inspectors.

(*2*) A wireless telegraphy inspector may inspect any ship for the purpose of seeing that she is properly provided with a wireless telegraph installation and certificated operators and watchers in conformity with

[1] Sections 241 to 245 were brought into force from 5th May 1923, *vide* Notification No. 2743, dated the 5th May 1923, Gen. R. and O., Vol. V, p. 446.
[2] For such notification *see* Gen. R. and O., Vol. V, p. 447.

this Part, and for this purpose may go on board any ship at all reasonable times and do all things necessary for the proper inspection of the ship for the purpose of the provisions of this Part relating to wireless telegraphy, and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the installation, and of the certificates of the operators and watchers on the ship.

(3) If a wireless telegraphy inspector finds that a ship is not provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(4) Every notice given under sub-section (3) shall be communicated, in the prescribed manner, to the Chief Officer of Customs of any port at which the ship may seek to obtain port clearance, who shall order that the ship shall be detained until a certificate under the hand of a wireless telegraphy inspector is produced to the effect that the ship is properly provided with a wireless telegraph installation and certified operators and watchers in conformity with this Part.

Application to ships other than British ships registered in British India.

[1]244. The provisions of this Part relating to wireless telegraphy shall, as from a date three months after the coming into force of those provisions, apply to ships other than British ships registered in British India while they are within any port in British India in like manner as they apply to British ships registered in British India.

Power to make rules.

[1]245. (1) The Governor General in Council may make rules to carry out the purposes of the provisions of this Part relating to wireless telegraphy.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the nature of the wireless telegraph installation to be provided and of the service to be maintained, and the number, grades and qualifications of certified operators and watchers to be carried:

Provided that no ship shall be required to carry more than one operator, unless more than one operator would have been required under the provisions of the Merchant Shipping (Convention) Act, 1914; 4 & 5 V, c

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[1] See footnote 1 on p. 477 *ante*.

(*b*) the manner in which a notice given under sub-section (*3*) of section 243 shall be communicated to the Chief Officer of Customs,

[1][(*c*) the charging of fees for the grant of the certificate referred to in sub-section (*4*) of section 243, the amount of such fees and the manner in which they shall be recoverable.]

PART VI

SPECIAL SHIPPING INQUIRIES AND COURTS

246. (*1*) For the purpose of inquiries and investigations under this Part a shipping casualty shall be deemed to occur when— *Shipping casualties and report thereof.*

(*a*) on or near the coasts of British India, any ship is lost, abandoned, stranded or materially damaged,

(*b*) any loss of life ensues by reason of any casualty happening to, or on board of, any ship on or near those coasts,

(*c*) on or near those coasts any ship causes loss or material damage to any other ship,

(*d*) in any place any such loss, abandonment, stranding, damage or casualty occurs to, or on board of, any British ship, and any competent witness thereof is found at any place in British India, or

(*e*) any British ship is supposed to have been lost and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of.

(*2*) In sub-section (*1*), the word "coasts" includes the coasts of creeks and tidal rivers.

(*3*) In the cases mentioned in clauses (*a*), (*b*) and (*c*) of sub-section (*1*), the master, pilot, harbour master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the shipping casualty, and

in cases under clause (*d*) of sub-section (*1*), where the master of the ship concerned or (except in the case of a loss) where the ship concerned proceeds to any place in British India from the place where the shipping casualty has occurred, the master of the ship,

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[1] This clause was inserted by s. 2 of the Indian Merchant Shipping (Amendment) Act, 1925 (1 of 1925).

shall on arriving in British India give immediate notice of the shipping casualty to the nearest Magistrate ~~or, when he arrives at a port in British India, to any officer appointed by the Local Government in this behalf at that port~~.

(2) Any person bound to give notice under this section and wilfully failing to give the same shall be liable to a fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

Report of shipping casualties to *the Local* Government.

247. (1) Whenever any ~~Magistrate or any officer appointed by the Local Government in this behalf~~ [such officer] receives credible information that a shipping casualty has occurred, he shall forthwith report in writing the information to the ~~Local Government~~.

(2) Any such ~~Magistrate~~ or officer—

(i) may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage;

(ii) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make;

(iii) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make;

(iv) may require and enforce the production of all books, papers or documents which he considers important for such purpose; and

(v) may administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Power for Local Government to appoint special Courts of Investigation.

248. [(3)] (1) If the Local Government to which the report prescribed by the last foregoing section has been made or within whose territories any competent witnesses of any shipping casualty have arrived or are to be found or any evidence thereof can be obtained, is of opinion that a formal investigation into the shipping casualty is requisite or expedient,

(*Part VI —Special Shipping Inquiries and Courts*)

the Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct that Court to make the investigation, and may fix the place for making the same

(2) One of the members of the Court shall be a Magistrate acting in or near the place where the investigation is made, another shall be some person conversant with maritime affairs; and the other or others (if any) shall be conversant with either maritime or mercantile affairs

249. Every Colonial Court of Admiralty in British India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no such Court is hereby authorised, when so directed ...ernment or by such officer as the Local Government has ... Power for other Courts to hold investigations into casualties when so directed

249 For this section the following section shall be substituted namely —

"249 Magistrate of the first class specially empowered in this behalf by the Local Government and Presidency Magistrates shall have jurisdiction to make formal investigations into shipping casualties under this Part" Court empowered to make formal investigation

casualty ...

arising, in the course of the inve... ... engineer, as well as into any charge of a wrongful act or defa... part causing the shipping casualty mates and engineers

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed

251 (1) If the ~~Local Government~~ has reason to believe that there are grounds for charging any master, mate or engineer with incompetency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the ~~Local Government~~— Power for Local Government to direct investigation into charges of incompetency or misconduct.

(a) if the master, mate or engineer holds a certificate under this Act, in any case,

(b) if the master, mate or engineer holds a certificate under the Merchant Shipping Acts, in the following cases —

(i) where the incompetency or misconduct has occurred on a British ship on or near the coasts of British India, or on board a British ship in the course of a voyage to a port within the colony;

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(ii) where the incompetency or misconduct has occurred on board a British ship registered in British India,

(iii) where the master, mate or engineer of a British ship, who is charged with incompetency or misconduct on board that British ship is found in British India,

may transmit a statement of the case to any Court mentioned in section 249 at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that Court to make an investigation into that charge.

(2) Before commencing the investigation, the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the ~~Local Government~~.

Person accused to be heard.

252. For the purpose of an investigation under this Part into any charge against a master, mate or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.

Powers of Courts as to evidence and regulation of proceedings.

253. For the purpose of any investigation under this Part, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

(a) if the Court is a special Court—the same powers as are exerciseable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made,

(b) if the Court is a Court having admiralty jurisdiction or a principal Court of ordinary criminal jurisdiction—the same powers as are exerciseable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

Assessors.

254. (1) When any investigation involves or appears likely to involve any question as to the cancelling or suspension of the certificate of a master, mate or engineer, the Court making the investigation shall constitute as its assessors for the purpose of the investigation two persons having experience in the merchant service, and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor for the purposes of the investigation any person conversant with maritime affairs and willing to act as its assessor.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings, but the

(Part VI.—Special Shipping Inquiries and C

After sub-section (2) the following sub-section shall be added namely:—

"(3) The assessors shall be chosen from a list to be prepared from time to time by the Governor General in Council."

exercise of all pow

...vestigation under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel. **Power to arrest witnesses and cause entry and detention of vessels.**

(2) Any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest.

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

256. Whenever, in the course of any such investigation, it appears that any person has committed within the jurisdiction of any Court in British India an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all ~~the powers of a Magistrate of the first class or of a Presidency Magistrate.~~ **Power to commit for trial and bind over witnesses.**

257. (1) The Court shall, in the case of all investigations under this Part, transmit to the ~~Local Government~~ a full report of the conclusions at which it has arrived, together with the evidence. **Report by Court to Local Government.**

(2) In cases in which, under the Merchant Shipping Acts, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

Suspension and Cancellation of Certificates and Grant of fresh Certificates.

258. Nothing in this Part shall affect the powers conferred by the Merchant Shipping Acts, on the Courts conducting investigation under **Saving of power to cancel and**

(*Part VI.—Special Shipping Inquiries and Courts.*)

suspend certificates and remove master under English Acts

this Part to cancel or suspend certificates granted under any of the said Acts, or the power to remove the master of a ship conferred by section 472 of the [1]Merchant Shipping Act, 1894. 57 & Vict

Power to issue local certificates in lieu of cancelled or suspended certificates

259. (*1*) When any such Court cancels or suspends any such certificate, the Local Government may, if it thinks fit, and if it is so empowered by any enactment of a British Indian Legislature for the time being in force, grant under that enactment, but without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate and when the certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

(*3*) The Local Government may act under this section either in pursuance of a recommendation from the Court or of its own motion.

Power for Local Government to suspend or cancel certificates in certain cases

260. (*1*) Any certificate which has been granted by any Local Government to any master, mate or engineer, may be suspended or cancelled, by that or any other Local Government, in the following cases, that is to say:—

(*a*) if, on any investigation made under the Merchant Shipping Acts, or on any investigation made by any Court or tribunal for the time being authorised by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default;

(*b*) if he is proved to have been convicted of any offence which, if committed in British India, would be non bailable, or, if committed in England, would be a felony; and

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(c) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the [1]Merchant Shipping Act, 1894, or by any other law for the time being in force 60,

(2) Notwithstanding anything contained in this Act, the Local Government may, at any time, without any formal investigation, suspend or cancel any engine driver s certificate granted by it if, in its opinion, the holder is, or has become, unfit to act as an engine driver

261. If the Local Government which cancels or suspends a certificate of a master, mate or engineer is not the Local Government by or under the authority of which the same was granted, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to that Local Government

Report to other Local Governments

262 Every Local Government cancelling or suspending under section 260 the certificate of a master, mate or engineer shall as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension

Report to Board of Trade

263 (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section 260, or grant without examination to any person whose certificate it has so cancelled, a new certificate of the same or of any lower grade

Power to revoke cancellation or suspension and grant new certificates

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts

264 (1) A certificate of a master, mate or engineer which has been granted by a Local Government under this Act may be cancelled or suspended—

Power of Court of Investigation or Inquiry as to certificates granted by a Local Government

(a) by a Court holding a formal investigation into a shipping casualty under this Part if the Court finds that the loss, stranding or abandonment of or damage to, any ship, or loss of life, has been caused by the wrongful act or default of such master mate or engineer,

(b) by a Court holding an investigation under this Part into the conduct of the master mate or engineer if the Court finds that he is incompetent or has been guilty of any gross act of drunkenness tyranny or other misconduct

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(2) At the conclusion of the investigation or as soon afterwards as possible the Court shall state in open sitting the decision to which it may have come with respect to the cancelment or suspension of any certificate

(3) Where the Court cancels or suspends a certificate the Court shall forward *it to the* ~~Local Government~~ *together with the report which it is* required by this Part to transmit to ~~that Government~~

(4) A certificate shall not be cancelled or suspended by a Court under this section unless a copy of the report or a statement of the case on which *the investigation or inquiry has been ordered has been furnished before* the commencement of the investigation or inquiry to the holder of the certificate

(5) The duties imposed and powers conferred by sections 261, 262 and 263 *on the* ~~Local Government which cancels or suspends a certificate~~ shall when a Court has under this section cancelled or suspended a certificate be performed and exercised by the ~~Local Government to which the Court has forwarded the certificate under sub section (3) as if such Local Government had itself~~ *cancelled or suspended the certificate under* section 260

Power to remove master and appoint a new master

265 (1) The principal Court of ordinary criminal jurisdiction at any port in British India where there is no Colonial Court of Admiralty may remove the master of any ship within the jurisdiction of that Court if that removal is shown to the satisfaction of the Court by evidence on oath to be necessary

(2) The removal may be made upon the application of the owner of any ship or his agent or of the consignee of the ship or of any certificated mate or of one third or more of the crew of the ship

(3) The Court may appoint a new master instead of the one removed, but where the owner agent or consignee of the ship is within the jurisdiction of the Court such an appointment shall not be made without the consent of that owner agent or consignee

(4) The Court may also make such order and require such security in respect of the costs of the matter as the Court thinks fit

Delivery of certificate cancelled or suspended

266 (1) A master mate or engineer whose certificate is cancelled or suspended by any Court or by the ~~Local Government~~ shall deliver his certificate—

(a) if cancelled or suspended by a Court to that Court

(b) if cancelled or suspended by a Local Government, to that Local Government, or to a shipping master or other person appointed in this behalf by that Local Government

(2) If a master mate or engineer fails to comply with this section, he shall for each offence be liable to a fine which may extend to five hundred rupees

Investigations into Explosions

267	(1)	3	For the words Local Government the words Governor General in Council or a person duly appointed by him in this behalf shall be substituted
267	(2)	—	For the words Local Government the words Governor General in Council or such authorised person shall be substituted

(2 The person or persons so directed may enter into and on the steam ship with all necessary workmen and labourers and remove any portion of the steam ship or of the machinery thereof, for the purpose of the investigation and shall report to the Local Government what in his or their opinion was the cause of the explosion

Courts of Survey

268 (1) A Court of Survey for a port shall consist of a Judge sitting with two assessors Constitution of Court of Survey

(2) The Judge shall be a District Judge Judge of a Court of Small Causes Presidency Magistrate Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified case

(3) The assessors shall be persons of nautical engineering or other special skill or experience

(4) Subject to the provisions of Part V as regards foreign ships one of the assessors shall be appointed by the Local Government either generally or in each case and the other shall be summoned by the Judge in the manner prescribed out of a list of persons from time to time prepared for the purpose and published by the Local Government in the local official Gazette or if there is no such list or if it is impracticable to procure the attendance of any person named in such list shall be appointed by the Judge

269 (1) The Judge shall on receiving notice of an appeal or a reference from the Local Government immediately summon the assessors to meet forthwith in the prescribed manner Powers and procedure of Court of Survey

(Part VI.—Special Shipping Inquiries and Courts.)

(2) The Court of Survey shall hear every case in open Court.

(3) The Judge and each assessor shall, for the purposes of this Act, have the same powers of inspection and of enforcing the attendance of witnesses and the production of evidence as are by this Act conferred on a detaining officer.

(4) The Judge may appoint any competent person to survey the ship and report thereon to the Court.

(5) The Judge shall have the same power as the ~~Local Government~~ has to order the ship to be released or finally detained, but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(6) The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the ~~Local Government~~, may attend at any inspection or survey made in pursuance of this section.

(7) The Judge shall report the proceedings of the Court in each case to the ~~Local Government~~ in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.

Power of Local Government to make rules with respect to Court of Survey.

270. The ~~Local Government~~ may make rules to carry into effect the provisions of this Act with respect to a Court of Survey, and, in particular and without prejudice to the generality of the foregoing power, with respect to—

(a) the procedure before the Court;

(b) the requiring, on an appeal, of security for costs and damages;

(c) the amount and application of fees; and

(d) the ascertainment, in case of dispute, of the proper amount of costs.

Scientific Referees

Reference in difficult cases to scientific persons.

271. (1) If the ~~Local Government~~ is of opinion that an appeal to a Court of Survey involves a question of construction or design or of scientific difficulty, or important principle, ~~it~~ may refer the matter to such one or more out of a list of scientific referees to be from time to time prepared by the ~~Local Government~~ as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between ~~the Port officer~~ and the appellant, or in

default of any such agreement, by the Local Government, and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

(2) The ~~Local Government~~ G. G. in Council, if the appellant in any such appeal so requires and gives security to ~~its~~ his satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

(3) The referee or referees shall have the same powers as a Judge of the Court of Survey.

PART VII.

WRECK AND SALVAGE.

272. In this Part "wreck" includes the following when found in the sea or any tidal water or on the shores thereof:— 'Wreck' defined.

(a) goods which have been cast into the sea and then sink and remain under water;

(b) goods which have been cast or fall into the sea and remain floating on the surface;

(c) goods which are sunk in the sea, but are attached to a floating object in order that they may be found again;

(d) goods which are thrown away or abandoned; and

(e) a ship abandoned without hope or intention of recovery.

273. (1) The ~~Local Government~~ G. G. in Council may, by notification in the ~~local official~~ Gazette of India, appoint such person as ~~it~~ he thinks fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as it may prescribe. Appointment of receivers.

(2) Persons so appointed shall be called receivers of wreck.

274. (1) Any person finding and taking possession of any wreck within any local limits for which a receiver of wreck has been so appointed, or bringing within such limits any wreck which has been found and taken possession of elsewhere, shall, as soon as practicable,— Rules to be observed by persons finding wreck.

(a) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;

(b) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

(2) Any person omitting to give notice of the finding of, or to deliver any wreck to the receiver of wreck as required by sub-section (1) shall be liable to a fine which may extend to one thousand rupees, and, in the case of omission to deliver any wreck, shall, in addition to such fine, forfeit all claim to salvage and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed to the Government, a penalty not exceeding twice the value of such wreck.

Government or person finding wreck entitled to salvage.

275. (1) Whenever any wreck is found by the receiver of wreck or has been delivered to him in accordance with the provisions of this Part by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

(2) Any dispute arising concerning the amount due under this section shall be determined by a Magistrate upon application to him for that purpose by either of the disputing parties.

Notice to be given by receiver.

276. The receiver of wreck shall, on taking possession of any wreck, publish a notification, in such manner and at such place as the ~~Local Government~~ may prescribe in this behalf, containing a description of the same and the time at which and the place where the same was found.

Wreck may in certain cases be sold.

277. If after the publication of such notification the wreck is unclaimed, or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the receiver of wreck in respect thereof, the receiver of wreck may sell such wreck by public auction, if of a perishable nature, forthwith, and, if not of a perishable nature, at any period not less than six months after such notification as aforesaid.

Proceeds how applied.

278. On the realization of the proceeds of such sale, the amount due for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes his claim within one year from the date of the sale.

Act to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also each be liable to a fine which may extend to one thousand rupees.

(4) When any owner or master is convicted of an offence under sub-section (3), the convicting Magistrate may inquire into and determine the amount payable on account of expenses by such owner or master under that sub-section, and may direct that the same shall be recovered from him in the manner provided for the recovery of fines.

285. When an order under this Act for the payment of any wages or other money is made by a shipping-master or a Magistrate and the money is not paid at the time or in the manner directed, the sum mentioned in the order with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the moveable property of the person directed to pay the same under a warrant to be issued for that purpose by a Magistrate. **Levy of wages, etc., by distress of moveable property.**

286. Where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the person so directed to pay the same is the master or owner of a ship and the same is not paid at the time or in the manner directed by the order, the Court or Magistrate may, in addition to any other power it or he may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel. **Levy of wages, fines, etc., by distress of ship.**

287. Where for the purposes of this Act any document is to be served on any person, that document may be served— **Service of documents.**

(a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode; and

(b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship, with the person being or appearing to be in command or charge of the ship; and

(c) if the document is to be served on the master of a ship where there is no master and the ship is in British India, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in British India, or, where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

(*Part VIII.—Legal Proceedings.*)

Depositions to be received in evidence when witnesses cannot be produced.

283. (*1*) Whenever, in the course of any legal proceeding under this Act instituted at any place in British India before any Court or Magistrate, or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused (as the case may be), after being allowed a reasonable opportunity for so doing, does not produce the witness before the Court, Magistrate or person so authorised, any deposition previously made by the witness in relation to the same subject matter before any Court, Justice or Magistrate in His Majesty's dominions (including all parts of British India other than those subject to the same Local Government as the place where the proceeding is instituted), or before any British consular officer, if elsewhere, shall be admissible in evidence—

(*a*) if the deposition is authenticated by the signature of the presiding officer of the Court or of the Justice, Magistrate or consular officer before whom it is made;

(*b*) if the defendant or the person accused had an opportunity by himself or his agent of cross examining the witness;

(*c*) if the proceeding is criminal, on proof that the deposition was made in the presence of the person accused.

(*2*) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and a certificate by such person that the defendant or the person accused had an opportunity of cross examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

Enforcing detention of ship.

284. (*1*) Where under this Act a ship is authorised or ordered to be detained, any commissioned officer on full pay in the Naval or Military service of His Majesty, any commander or first officer in the Royal Indian Marine Service, or any port officer, harbour master, conservator of a port, or officer of Customs may detain the ship.

(*2*) If any ship after detention, or after service on the master of any notice of, or order for, such detention, proceeds to sea before she is released by competent authority, the master of the ship shall be liable to a fine which may extend to one thousand rupees.

(*3*) When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorised under this

(Part VIII —Legal Proceedings)

Act to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also each be liable to a fine which may extend to one thousand rupees

(4) When any owner or master is convicted of an offence under sub-section (3), the convicting Magistrate may inquire into and determine the amount payable on account of expenses by such owner or master under that sub section, and may direct that the same shall be recovered from him in the manner provided for the recovery of fines

Levy of wages, etc, by distress of moveable property

285. When an order under this Act for the payment of any wages or other money is made by a shipping master or a Magistrate and the money is not paid at the time or in the manner directed the sum mentioned in the order with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the moveable property of the person directed to pay the same under a warrant to be issued for that purpose by a Magistrate

Levy of wages, fines, etc, by distress of ship

286. Where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the person so directed to pay the same is the master or owner of a ship, and the same is not paid at the time or in the manner directed by the order, the Court or Magistrate may, in addition to any other power it or he may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel

Service of documents

287. Where for the purposes of this Act any document is to be served on any person, that document may be served—

(a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, and

(b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship by leaving the same for him on board that ship with the person being or appearing to be in command or charge of the ship, and

(c) if the document is to be served on the master of a ship, where there is no master and the ship is in British India, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in British India, or, where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship

Application of fines.

288. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed or in or towards payment of the expenses of the prosecution.

PART IX.

SUPPLEMENTAL.

Powers to see Act is complied with.

289. (1) Where a shipping master has reasons to suspect that the provisions of this Act are not complied with, that officer may—

(a) enter on board any British ship, and

(b) muster and examine the crew.

(2) If any person obstructs any shipping master in the execution of his duty under this section, he shall be liable to a fine which may extend to one hundred rupees.

Ship Surveyors.

Power to appoint examiners and to make rules as to qualifications of ship surveyors.

290. The ~~Local Government~~ G. G. in Council may appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in ~~the territories administered by such Government and, subject to the control of the Governor General in Council,~~ British India may make rules—

(a) for the conduct of such examinations and the qualifications to be required,

(b) for the grant of certificates to qualified persons,

(c) for the fees to be paid for such examinations and certificates,

(d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates, and

(e) for the suspension and cancellation of such certificates.

No person to practise as ship surveyor unless qualified.

291. No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 290, exercise such profession in such port unless he holds a certificate granted under that section:

Provided that nothing herein contained shall prevent any person employed by Lloyd's Register of British and Foreign Shipping or Bureau Veritas from discharging any of the duties of such employment, or apply to any person specially exempted by the ~~Local Government~~ G. G. in Council from the operation of this section.

(*Part IX —Supplemental Schedule I*)

292 Any person exercising the profession of a ship surveyor in contravention of the provisions of section 291 shall be liable to a fine not exceeding one thousand rupees and shall be incapable of maintaining any suit for any fee or reward for anything done by him — Penalty practising ship surveyor without certificate

293 Any person appointed or authorised under this Act to survey — Powers

Insertion of new section 94A in Act XXI of 1923

8 After section 294 of the said Act the following section shall be inserted namely —

Power to appoint committees to advise on rules and scales

"294A (*1*) The Governor General in Council may if he thinks fit appoint Committees for the purpose of advising him when considering the making or alteration of any rules or scales under this Act consisting of such persons as he may appoint representing the interests principally affected or having special knowledge of the subject matter

(*2*) There shall be paid to the members of any such Committee such travelling and other allowances as the Governor General in Council may fix

(*3*) Committees may be appointed under this section to advise the Governor General in Council especially as regards any special rules or scales, or, generally, as regards any class or classes of rules or scales which the Governor General in Council may assign to them "

FEES TO BE CHARGED FOR MATTERS TRANSACTED AT SHIPPING OFFICES

1 *Engagement or discharge of crews* —

	Rs	A	P
In ships under 100 tons	3	0	0
from 100 to 200 tons	7	0	0
200 to 300	*10*	*0*	*0*
300 to 400	12	8	0
400 to 500	15	0	0
500 to 600	17	8	0
600 to 700	20	0	0
700 to 800	22	8	0
800 to 900	25	0	0
900 to 1 000	27	8	0
above 1 000 tons	30	0	0

and so on for ships of larger tonnage adding for every one hundred tons above one thousand two rupees and eight annas

2 Engagement or discharge of seamen separately—one rupee for each seaman

TABLE B

SUMS TO BE DEDUCTED FROM WAGES BY WAY OF PARTIAL REPAYMENT OF FEES IN TABLE A

1 In respect of engagements and discharges of crews, upon each engagement and each discharge—

	Rs	A	P
From wages of any mate, purser, engineer, surgeon, carpenter or steward	0	12	0
From wages of all others except apprentices	0	8	0

2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge—eight annas

SCHEDULE II

(*See section 131*)

Rates of Fees payable in respect of Survey of Steam ships

			Tons	Rs
For steam ships of less than			200	40
,,	,,	200 tons and up to	350	50
,,	,,	350 ,, ,, ,,	700	60
,,	,,	700 ,, ,, ,,	1,000	80
,,	,,	1,000 ,, ,, ,,	1 500	100
,,	,,	1,500 ,, and upwards		120

SCHEDULE III

(*See section 146*)

PART I

(*Applied sections of the Merchant Shipping Act, 1894*)

Expenses of rescue and conveyance of wrecked passengers

332. If any passenger, whether a cabin or a steerage passenger, is either taken off any ship which is carrying any steerage passenger on a voyage from any part of His Majesty's dominions and is damaged, wrecked, sunk or otherwise destroyed, or if any such passenger is picked up at sea from any boat, raft, or otherwise, it shall be lawful—

(*a*) if the port to which such passenger (in this Act referred to as "wrecked passenger") is conveyed is in the United Kingdom, for a Secretary of State, and

(*b*) if the port is in a British possession, for the Governor of that possession, or any person authorised by him for the purpose; and

(*Schedule III*)

(c) if the port is elsewhere, for the British Consular Officer there; to defray all or any part of the expenses thereby incurred

333. (*1*) If any passenger, whether a cabin or a steerage passenger from any ship which is carrying any steerage passengers on a voyage from any port in His Majesty's dominions, finds himself, without any neglect or default of his own, at any port outside the British Islands other than the port for which the ship was originally bound, or at which he, or the Board of Trade, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful— Forwarding of passengers by Governors or Consuls

(*a*) if the place is in a British possession, for the Governor of that possession, or any person authorised by the Governor for the purpose, and

(*b*) if the place is elsewhere, for the British Consular Officer there; to forward the passenger to his intended destination, unless the master of the ship, within forty eight hours of the arrival of the passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or convey within six weeks thereafter the passenger to his original destination, and forwards or conveys him accordingly within that period

(*2*) A passenger so forwarded by or by the authority of, a Governor or a British Consular Officer shall not be entitled under this Part of this Act to the return of his passage money, or to any compensation for loss of passage

334. (*1*) All expenses incurred under this Part of this Act by, or by the authority of, a Secretary of State Governor of a British possession, or Consular Officer, in respect of a wrecked passenger, or forwarding of a passenger to his destination including the cost of maintaining the passenger, until forwarded to his destination, and of all necessary bedding provisions, and stores shall be a joint and several debt to the Crown from the owner charterer and master of the ship on board of which the passenger had embarked Recovery of expenses incurred in conveying wrecked passengers and forwarding passengers

(*2*) In any proceeding for the recovery of that debt, a certificate purporting to be under the hand of a Secretary of State, Governor, or Consular Officer, and stating the circumstances of the case, and the total amount of the expenses shall be admissible in evidence in manner provided by this Act, and shall be sufficient evidence of the amount of the expenses, and of the fact that the same were duly incurred, *unless* the defendant specially pleads and duly proves that the certificate is

(Schedule III.)

false and fraudulent, or that the expenses were not duly incurred under this Act

(3) The sum recovered on account of the expenses shall not exceed twice the total amount of passage money which the owner, charterer, or master of the emigrant ship proves to have been received by him or on his account, or to be due to and recoverable by him or on his account in respect of the whole number of passengers, whether cabin or steerage, who embarked in the ship

Validity of insurance of passage money

335. A policy of assurance effected in respect of any steerage passage or compensation money by any person by this Part of this Act made liable, in the events aforesaid, to provide such passage or to pay such money, or in respect of any other risk under this Part of this Act, shall not be invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance

PART II

FORM OF GOVERNOR'S OR CONSUL'S CERTIFICATE OF EXPENDITURE IN THE CASE OF PASSENGERS SHIPWRECKED, ETC

(See applied section 334 above.)

I hereby certify that, acting under, and in conformity with, the provisions of Part III of the Indian Merchant Shipping Act, 1923, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding provisions and stores (a), and in forwarding to their destination passengers [including cabin passengers (b),] who were proceeding from to in the passenger ship which was wrecked at sea, etc (c)

(a) *N B*—1 If more passengers were rescued than forwarded or if bedding etc, was not supplied, *alter the certificate to suit the facts of the case*

(b) *N B*—2 Omit words in brackets when necessary

(c) *N B*—3 State generally the nature of the disaster and where it occurred But if the passengers were only left behind without any default of their own, state the fact accordingly

And I further certify, for the purposes of Part of the said Act, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act Given under my hand this day of , 19

Governor of, etc (or, as the case may be) *His Britannic Majesty's Consul at*

(*Schedule IV*)

SCHEDULE IV

(*See section 279*)

Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic with reference to the disposal of the proceeds of Wrecks on their respective Coasts

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the Government of the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June, 1879, by the following arrangements —

Article I

When any ship belonging to the subjects of one of the two Contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul General, Consul, Vice Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place

Article II

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls General, Consuls, Vice Consuls or Consular Agents of Great Britain, and reciprocally the French Consuls General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nation wrecked or stranded on the coasts of Great Britain

Article III

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls General, Consuls, Vice-Consuls and Consular Agents shall hand over to them the

conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee for those incurred before the operations were handed over, and which may not have been already settled

ARTICLE IV

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order, of securing the interests of the salvors if they are strangers to the ship wrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved

In the absence, and until the arrival, of the Consuls General, Consuls, Vice Consuls or Consular Agents, the local authorities shall, moreover, take all necessary measures for the protection of the persons and for the preservation of the articles which shall have been saved from the wreck

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and the protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo

ARTICLE V

The merchandise and articles saved shall not be liable to any customs-duties, unless they are intended for home consumption, in which case they shall pay the same duties as they would have had to pay if they had been imported in national vessels

(Schedule IV)

ARTICLE VI

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting those hereinafter named, that is to say, except to—

India	Victoria
The Dominion of Canada	Queensland
Newfoundland	Tasmania
The Cape	South Australia
Natal.	Western Australia
New South Wales	New Zealand

Provided always that the stipulations of the present Declaration shall be made applicable to any of the abovenamed Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France

ARTICLE VII

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either Party may give notice of its intention to terminate it

In witness whereof, the undersigned Plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency M Eugène Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals

Done at Paris, this twenty third day of October, 1889

(L S) LYTTON

(L S) E SPULLER

[*SCHEDULE V*]

[*Enactments Repealed*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)*

ACT No XXIII OF 1923 [1]

[*2nd April, 1923*]

An Act for the removal of doubts regarding the right of women to be enrolled and to practise as legal practitioners

WHEREAS it is expedient to remove certain doubts which have arisen as to the right of women to be enrolled and to practise as legal practitioners, It is hereby enacted as follows —

Short title and extent

1. (*1*) This Act may be called the Legal Practitioners (Women) Act, 1923

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas

Definition

2 In this Act, "legal practitioner" means a legal practitioner as defined in section 3 of the Legal Practitioners Act, 1879 XVIII of 1879

Women not to be disqualified by reason only of sex

3. Notwithstanding anything contained in any enactment in force in British India or in the letters patent of any High Court or in any rule or order made under or in pursuance of any such enactment or letters patent, no woman shall, by reason only of her sex, be disqualified from being admitted or enrolled as a legal practitioner or from practising as such, and any such rule or order which is repugnant to the provisions of this Act shall, to the extent of such repugnancy, be void

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ACT No XXVI OF 1923 [2]

[*25th July, 1923*]

An Act further to amend the Code of Civil Procedure, 1908, for certain purposes

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for certain purposes hereinafter appearing; It is hereby V of 1908. enacted as follows —

Short title

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1923

Amendment of section 60, Act V of 1908

2 In clause (i) of sub section (*1*) of section 60 of the Code of Civil Procedure, 1908, for the word "twenty", wherever it occurs, the word V of 1908. "forty", and for the word "forty" the word "eighty", shall be substituted

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1 For Statement of Objects and Reasons *see* Gazette of India, 1923, Pt. V, p 160

2 For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt V, p 240

ACT No XXVII OF 1923 [1]

[25th July, 1923]

An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

XI of 1922. WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for certain purposes hereinafter appearing, It is hereby enacted as follows —

1. This Act may be called the Indian Income tax (Further Amendment) Act, 1923 Short title.

2. In sub section (2) of section 4 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), for the words " shall be deemed to be profits and gains of the year in which they are received or brought into British India , the following words shall be substituted, namely — Amendment of section 4, Act XI of 1922. XI of 1922

[*Vide* p 89, *supra*]

3. After Chapter V of the said Act the following Chapter shall be inserted, namely — Insertion of new Chapter VA in Act XI of 1922.

[*Vide* p 108, *supra*]

ACT No XXIX OF 1923 [2]

[27th July, 1923]

An Act further to amend the Code of Civil Procedure, 1908.

V of 1908. WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908 It is hereby enacted as follows —

1. This Act may be called the Code of Civil Procedure [3][Second Amendment] Act, 1923 Short title.

2 In sub rule (1) of rule 32 of Order XXI in the First Schedule to the Code of Civil Procedure, 1908 (hereinafter referred to as the said Order), after the word enforced ' the following shall be inserted, namely — Amendment of rule 32 of Order XXI in Schedule I, Act V of 1908 V of 1908.

' in the case of a decree for restitution of conjugal rights by the attachment of his property or, in the case of a decree for the specific performance of a contract or for an injunction ".

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[1] For Statement of Objects and Reasons *see* Gazette of India, 1923, Pt. V, p 246

[2] For Statement of Objects and Reasons *see* Gazette of India 1921 Pt V, p 184 and for Report of Select Committee, *see ibid* 1923 Pt V p 111

[3] These words were substituted for the word Amendment ' by s. 2 and Sch. I of the Repealing and Amending Act, 1925 (37 of 1925)

Amendment of rule 33 of Order XXI in Schedule I, Act V of 1908.

3. In rule 33 of the said Order,—

(a) in sub rule (1), after the words "passing a decree" the words "against a husband" shall be inserted, and for the words "shall not be executed by detention in prison" the words "shall be executed in the manner provided in this rule" shall be substituted, and

(b) in sub rule (2), the words "and the decree holder is the wife" shall be omitted

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ACT No XXX OF 1923 [1]

[30th July, 1923]

An Act further to amend the Special Marriage Act, 1872.

WHEREAS it is expedient further to amend the Special Marriage Act, 1872, It is hereby enacted as follows — III of 1872.

Short title

1. This Act may be called the Special Marriage (Amendment) Act, 1923

Amendment of preamble, Act III of 1872.

2 In the preamble to the Special Marriage Act, 1872 (hereinafter referred to as the said Act), after the words "Jaina religion" the following words shall be inserted, namely — III of 1872.

"and for persons who profess the Hindu, Buddhist, Sikh or Jaina religion"

Amendment of section 2, Act III of 1872

3. In section 2 of the said Act, after the words "Jaina religion" the following words shall be inserted, namely —

or between persons each of whom professes one or other of the following religions, that is to say, the Hindu, Buddhist, Sikh or Jaina religion"

Addition of new sections to Act III of 1872.

4. After section 21 of the said Act the following sections shall be inserted, namely —

Effect of certain marriages on coparcenary

"22 The marriage under this Act of any member of an undivided family who professes the Hindu, Buddhist, Sikh or Jaina religion shall be deemed to effect his severance from such family

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[1] For Statement of Objects and Reasons *see* Gazette of India, 1921, Pt V, p 114; for Report of Select Committee, *see ibid*, 1923, Pt V, p 133

23 A person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have the same rights and be subject to the same disabilities in regard to any right of succession to any property as a person to whom the Caste Disabilities Removal Act, 1850, applies

Rights of succession in certain cases of marriage under Act

XXI of 1850.

Provided that nothing in this section shall confer on any person any right to any religious office or service, or to the management of any religious or charitable trust

24 Succession to the property of any person professing the Hindu, Buddhist, Sikh or Jaina religion, who marries under this Act, and to the property of the issue of such marriage, shall be regulated by the provisions of the [1]Indian Succession Act, 1865

Succession to the property of parties married under Act

X of 1865.

25 No person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have any right of adoption

Person marrying under Act not to have right of adoption

26 When a person professing the Hindu, Buddhist, Sikh or Jaina religion marries under this Act, his father shall, if he has no other son living, have the right to adopt another person as a son under the law to which he is subject '

Adoption by father of person marrying under Act

5. In the Second Schedule to the said Act, after the words " Jaina religion " in both places where they occur, the following shall be inserted, namely —

Amendment of Second Schedule to Act III of 1872

"*or (as the case may be)* I profess the Hindu, or the Buddhist, or the Sikh, or the Jaina religion '

ACT No XXXI OF 1923 [2]

[*31st July, 1923*]

An Act to amend the Indian Territorial Force Act, 1920, and the Auxiliary Force Act, 1920, for certain purposes.

WHEREAS it is expedient to amend the Indian Territorial Force Act, 1920, and the Auxiliary Force Act, 1920 for certain purposes hereinafter appearing, It is hereby enacted as follows —

XLVIII of 1920. XLIX of 1920.

1. This Act may be called the Indian Territorial and Auxiliary Forces (Amendment) Act, 1923

Short title.

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[1] *See* now the Indian Succession Act 1925 (39 of 1925)

[2] For Statement of Objects and Reasons *see* Gazette of India 1923, Pt V, p 243.

Amendment of section 11, Act XLVIII of 1920

2 To section 11 of the Indian Territorial Force Act 1920, the following sub section shall be added, namely — XLVIII of 1920.

(3) Where an offence punishable under the Indian Army Act, 1911, or, as the case may be, under that Act as modified under sub section (2), has been committed by any person whilst subject to that Act under the provisions of this section, such person may be taken into and kept in military custody and tried and punished for such offence under that Act, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished, if he had continued to be so subject

Provided that no such person shall be kept in military custody after he has ceased to belong to the Indian Territorial Force, unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong, nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial had already commenced before such expiry

Amendment of section 21, Act XLIX of 1920

3 Section 21 of the Auxiliary Force Act, 1920, shall be re numbered as sub section (1) of section 21, and to that section as so re numbered the following sub section shall be added, namely — XLIX of 1920.

44 and 45 Vict, c 58

(2) Where an offence punishable under the Army Act has been committed by any person whilst subject to that Act under the provisions of sub section (1) such person may be taken into and kept in military custody and tried and punished for such offence, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished if he had continued to be so subject

Provided that no such person shall be kept in military custody after he has ceased to belong to the Auxiliary Force, India, unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong, nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial had already commenced before such expiry "

ACT No XXXII OF 1923 [1]

[31st July, 1923]

An Act further to amend the Indian Lunacy Act, 1912.

IV of 1912. WHEREAS it is expedient further to amend the Indian Lunacy Act, 1912, It is hereby enacted as follows —

1. This Act may be called the Indian Lunacy (Amendment) Act, 1923 Short title.

IV of 1912. 2. To section 20 of the Indian Lunacy Act, 1912, the following proviso shall be added, namely — Amendment of section 20, Act IV of 1912.

"Provided that no reception order shall continue to have effect—

(a) after the expiry of thirty days from the date on which it was made, unless the lunatic has been admitted to the place mentioned therein within that period, or

(b) after the discharge, under the provisions of this Act, of the lunatic from such place or from any asylum to which he may have been removed "

ACT No XXXIII OF 1923 [2]

[31st July, 1923]

An Act further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes

VIII of 1911, IV of 1912. WHEREAS it is expedient further to amend the Indian Army Act, 1911, and the Indian Lunacy Act 1912 for certain purposes hereinafter appearing, It is hereby enacted as follows —

1. This Act may be called the Indian Army (Amendment) Act, 1923 Short title.

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[1] For Statement of Objects and Reasons, see Gazette of India, 1923, Pt V, p 257

[2] For Statement of Objects and Reasons see Gazette of India 1923 Pt. V, p 245

Amendment of section 7, Act VIII of 1911

2. In section 7 of the Indian Army Act, 1911 (hereinafter referred VIII of 1911. to as the said Act),—

(a) to clause (1) after the words "land forces" the following words shall be added, namely —

"and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in His Majesty's Air Force"; and

(b) in clause (7), after the words "Army Act" the words "or the Air Force Act" shall be added

Amendment of section 91A, Act VIII of 1911.

3. To section 91A of the said Act the following sub section shall be added namely —

"(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act"

Insertion of new section 103A in Act VIII of 1911

4. In Chapter VIII of the said Act, after section 103 the following section shall be inserted, namely —

Provision in the case of accused being lunatic

"103A (1) Whenever in the course of a trial by court martial it appears to the Court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the Court shall record a finding accordingly, and the President of the Court or the officer holding the trial, as the case may be, shall forthwith report the case to the confirming officer, or, in the case of a court martial whose finding does not require confirmation, to the prescribed officer

(2) A confirming officer to whom a case is reported under sub section (1) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another court martial for the offence with which he was originally charged

(3) A prescribed officer to whom a case is reported under sub-section (1) and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner, and shall report the case for the orders of the Governor General in Council

(4) On receipt of a report under sub section (3), the Governor General in Council may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody

(5) Where an accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention, the prescribed officer may—

(a) if such person is in custody under sub-section (3), on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained under sub section (4), on a certificate such as is referred to in section 473 of the Code of

V of 1898 Criminal Procedure 1898,

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a Criminal Court

(6) A copy of every order made by the prescribed officer under sub-section (5) shall forthwith be sent to the Governor General in Council "

IV of 1912 5. In the Indian Lunacy Act, 1912— Amendment of sections 3, 24 30 and 35 Act IV of 1912

(a) to clause (4) of section 3 after the figures 1900 the words and figures or of section 103A of the Indian Army Act,

VIII of 1911 1911 ' shall be added

(b) in section 24, after the figures 1900 " the words and figures " or under section 103A of the Indian Army Act, 1911 shall be inserted

(c) in sub section (1) of section 30, after the figures " 1898 " the words and figures or under the provisions of section 103A of the Indian Army Act, 1911 ' shall be inserted, and

(*d*) in sub section (*2*) of section 35, after the figures "1898" the words and figures "or under section 103A of the Indian Army Act, 1911" shall be inserted

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ACT No. XXXIV OF 1923 [1]

[*31st July, 1923*]

An Act to amend the Cutchi Memon Act, 1920.

WHEREAS it is expedient to amend the Cutchi Memons Act, 1920, XLVI of 1920
It is hereby enacted as follows —

Short title

1. This Act may be called the Cutchi Memons (Amendment) Act 1923

Amendment of section 2, Act XLVI of 1920

2. (*1*) Section 2 of the Cutchi Memons Act, 1920 (hereinafter referred to as the said Act), shall be re numbered as sub section (*1*) of section 2, and in that sub section as re-numbered for the words "Any Cutchi Memon who— XLVI of 1920

(*a*) has attained the age of majority, and

(*b*) is resident in British India,"

the following shall be substituted, namely —

"Any person who satisfies the prescribed authority—

(*a*) that he is a Cutchi Memon and is the person whom he represents himself to be,

(*b*) that he is competent to contract within the meaning of section 11 of the Indian Contract Act, 1872, and IX of 1872.

(*c*) that he is resident in British India,"

(*2*) To the same section the following sub section shall be added, namely —

"(*2*) Where the prescribed authority refuses to accept a declaration under sub section (*1*), the person desiring to make the same may appeal to such officer as the Local Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that the appellant is entitled to make the declaration, order the prescribed authority to accept the same"

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p 253

3. Sub section (2) of section 3 of the said Act shall be re numbered as sub-section (3), and for sub section (1) of the same section the following sub section shall be substituted, namely — Amendment of section 3, Act XLVI of 1920

"(1) The Local Government may make rules to carry into effect the purposes of this Act

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely —

(a) for prescribing the authority before whom and the form in which declarations under this Act shall be made,

(b) for prescribing the fees to be paid for the filing of declarations and for the attendance at private residences of any person in the discharge of his duties under this Act, and for prescribing the times at which such fees shall be payable and the manner in which they shall be levied"

ACT No XXXV OF 1923 [1]

[*31st July, 1923*]

An Act further to amend the Code of Criminal Procedure, 1898.

WHEREAS it is expedient to give to mukhtars the right to practise in certain Criminal Courts and further to amend the Code of Criminal
V of 1898. Procedure, 1898, for that purpose, It is hereby enacted as follows —

1. This Act may be called the Code of Criminal Procedure (Further Amendment) Act, 1923 Short title.

2. In clause (r) of sub section (1) of section 4 of the Code of Criminal Procedure, 1898, after the words "means a pleader" the words "or a mukhtar" shall be inserted, and the words "mukhtar or" shall be omitted Amendment of section 4, Act V of 1898.

V of 1898.

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 67, for Report of Select Committee, *see ibid*, 1923 Pt. V, p 129

ACT No XXXVI OF 1923 [1]

[*3rd August, 1923.*]

An Act further to amend the Indian Paper Currency Act, 1923.

WHEREAS it is expedient further to amend the Indian Paper Currency Act, 1923, It is hereby enacted as follows — X of 1923.

Short title 1. This Act may be called the Indian Paper Currency (Amendment) Act, 1923

Amendment of section 18, Act X of 1923 2. To clause (*a*) of sub section (*8*) of section 18 of the Indian Paper Currency Act, 1923 (hereinafter referred to as the said Act), after the word "purchased" the following words shall be added, namely — X of 1923

[*Vide* p 253, *supra*]

Amendment of section 19, Act X of 1923 3. To sub-section (3) of section 19 of the said Act the following *Explanation* shall be added, namely —

[*Vide* p 254, *supra*]

Amendment of section 20, Act X of 1923 4. In section 20 of the said Act, for the word "fifty" the words "one hundred and twenty" shall be substituted

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ACT No XXXVII OF 1923 [2]

[*3rd August, 1923*]

An Act further to amend the Code of Criminal Procedure, 1898, for certain purposes.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, for certain purposes hereinafter appearing, It is hereby enacted as follows — V of 1898

Short title and commencement 1. (*1*) This Act may be called the Code of Criminal Procedure (Second Amendment) Act, 1923

(*2*) It shall come into force on such date[3] as the Governor General in Council may, by notification in the Gazette of India, appoint

Amendment of section 364 Act V of 1898 2. In section 364 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code),— V of 1898

(*a*) in sub section (*3*), the words "unless he is a Presidency Magistrate," shall be omitted, and

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p 243

2 For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p 242

3 This Act was brought into force from the 1st September, 1923 *vide* Notification No F 222 23 2, dated the 10th August 1923 Gen R and O, Vol V, p 455

(*b*) in sub-section (*4*), for the words and figures "or section 362, sub section (*2A*)" the following shall be substituted, namely —

"or in the course of a trial held by a Presidency Magistrate"

3. For section 388 of the said Code the following section shall be substituted, namely — **Substitution of new section for section 388, Act V of 1898.**

"388 (*1*) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may— **Suspension of execution of sentence of imprisonment**

(*a*) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days, and

(*b*) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made; and if the amount of the fine or of any instalment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(*2*) The provisions of sub section (*1*) shall be applicable also in any case in which an order for the payment of money has been made on non recovery of which imprisonment may be awarded and the money is not paid forthwith, and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub section, fails to do so, the Court may at once pass sentence of imprisonment"

Amendment of section 562, Act V of 1898

4. After sub section (1) of section 562 of the said Code the following sub section shall be inserted, namely —

Conviction and release with admonition

"(1A) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction is proved against him, the Court before whom he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition." XLV of 1860

Amendment of Schedule V, Act V of 1898

5. In Schedule V to the said Code, in Form XXXVIIA,—

(a) the words "until the day of " shall be omitted, and

(b) for the words "on that day," and for the words "on the said day of next," and for the words "on the day of next;" the words "on the following date (or dates), namely.— " shall be substituted

6. [*Repeal*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)*

ACT No XXXVIII of 1923[1]

[*5th August, 1923*]

An Act further to amend the Land Acquisition Act, 1894, for certain purposes.

WHEREAS it is expedient further to amend the Land Acquisition Act, 1894, for certain purposes hereinafter appearing, It is hereby enacted as follows — I of 1894.

Short title and commencement.

1. (1) This Act may be called the Land Acquisition (Amendment) Act, 1923

(2) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint

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[1] For Statement of Objects and Reasons, see Gazette of India 1923, Pt. V, p 260, for Report of Select Committee, see ibid, 1923, Pt. V, p 261.

[2] This Act came into force from 1st January 1924, vide Notification No 919, dated the 30th November 1923, Gen R. and O, Vol V, p 456

2 In sub section *(1)* of section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act) after the word locality where it first occurs the words is needed or shall be inserted **Amendment of section 4, Act I of 1894**

3 After section 5 of the said Act the following heading and section shall be inserted namely — **Insertion of new section 5A in Act I of 1894**

Objections

5A (*1*) Any person interested in any land which has been notified under section 4 sub section *(1)* as being needed or likely to be needed for a public purpose or for a Company may within thirty days after the issue of the notification object to the acquisition of the land or of any land in the locality as the case may be **Hearing of objections**

(*2*) Every objection under sub section *(1)* shall be made to the Collector in writing and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall after hearing all such objections and after making such further inquiry if any, as he thinks necessary submit the case for the decision of the Local Government together with the record of the proceedings held by him and a report containing his recommendations on the objections The decision of the Local Government on the objections shall be final

(*3*) For the purposes of this section a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act

4 In sub section *(1)* of section 6 of the said Act for the words whenever it appears to the Local Government the following shall be substituted namely — **Amend of section 6 Act I of 1894**

when the Local Government is satisfied after considering the report if any made under section 5A sub section *(2)*

5 In section 11 of the said Act after the words the value of the land the words at the date of the publication of the notification under section 4 sub section *(1)* shall be inserted **Amendment of section 11 Act I of 1894**

6 To section 17 of the said Act the following sub section shall be added namely — **Amendment of section 17 Act I of 1894**

(*4*) In the case of any land to which in the opinion of the Local Government the provisions of sub section *(1)* or sub section *(2)* are applicable the Local Government may direct that the provisions of section 5A shall not apply and if it does so direct a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub section *(1)*

Amendment of section 562, Act V of 1898

Conviction and release with admonition.

4. After sub section (1) of section 562 of the said Code the following sub section shall be inserted, namely —

" (1A) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction is proved against him the Court before whom he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition." XLV of 1860

Amendment of Schedule V Act V of 1898

5. In Schedule V to the said Code, in Form XXXVIIA,—

(a) the words until the day of ' shall be omitted, and

(b) for the words " on that day," and for the words " on the said day of next," and for the words " on the day of next," the words " on the following date (or dates), namely — " shall be substituted

6. [*Repeal*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)*

ACT No XXXVIII OF 1923 [1]

[*5th August 1923*]

An Act further to amend the Land Acquisition Act, 1894, for certain purposes.

WHEREAS it is expedient further to amend the Land Acquisition Act, 1894, for certain purposes hereinafter appearing, It is hereby enacted as follows — I of 1894

Short title and commencement.

1. (1) This Act may be called the Land Acquisition (Amendment) Act, 1923

(2) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint

[1] For Statement of Objects and Reasons *see* Gazette of India 1923, Pt. V p 260, for Report of Select Committee, *see ibid*, 1923 Pt. V, p 261.

[2] This Act came into force from 1st January 1924 *vide* Notification No 919, dated the 30th November 1923, Gen. R. and O, Vol V, p 456

2 In sub section (*1*) of section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act) after the word locality where it first occurs the words is needed or shall be inserted — **Amendment of section 4, Act I of 1894**

3 After section 5 of the said Act the following heading and section shall be inserted namely — **Insertion of new section 5A in Act I of 1894**

Objections

5A (*1*) Any person interested in any land which has been notified under section 4 sub section (*1*) as being needed or likely to be needed for a public purpose or for a Company may within thirty days after the issue of the notification object to the acquisition of the land or of any land in the locality as the case may be — **Hearing of objections**

(*2*) Every objection under sub section (*1*) shall be made to the Collector in writing and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall after hearing all such objections and after making such further inquiry if any as he thinks necessary submit the case for the decision of the Local Government together with the record of the proceedings held by him and a report containing his recommendations on the objections The decision of the Local Government on the objections shall be final

(*3*) For the purposes of this section a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act

4 In sub section (*1*) of section 6 of the said Act for the words whenever it appears to the Local Government the following shall be substituted namely — **Amendment of section 6 Act I of 1894**

when the Local Government is satisfied after considering the report if any made under section 5A sub section (*2*)

5 In section 11 of the said Act after the words the value of the land the words at the date of the publication of the notification under section 4 sub section (*1*) shall be inserted **Amendment of section 11 Act I of 1894**

6 To section 17 of the said Act the following sub section shall be added namely — **Amendment of section 17 Act I of 1894**

(*4*) In the case of any land to which in the opinion of the Local Government the provisions of sub section (*1*) or sub section (*2*) are applicable the Local Government may direct that the provisions of section 5A shall not apply and if it does so direct a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub section (*1*)

Amendment of section 23, Act I of 1894

7. In clause *first* of sub section (*1*) of section 23 of the said Act, for the words "declaration relating thereto under section 6," the words 'notification under section 4, sub section (*1*),' shall be substituted

Amendment of section 24 Act I of 1894

8. In clause *seventhly* of section 24 of the said Act, for the words "declaration under section 6" the words "notification under section 4, sub section (1)," shall be substituted

Amendment of section 40, Act I of 1894

9. In sub-section (*1*) of section 40 of the said Act, after the word "satisfied," the words "either on the report of the Collector under section 5A, sub-section (*2*), or " shall be inserted

Amendment of section 41, Act I of 1894

10. In section 41 of the said Act,—

(*a*) the words "Such officer shall report to the Local Government the result of the inquiry, and," shall be omitted, and

(*b*) after the word 'satisfied' the following words shall be inserted, namely —

'after considering the report, if any, of the Collector under section 5A, sub section (*2*), or on the report of the officer making an inquiry under section 40"

ACT No XXXIX OF 1923 [1]

[*5th August, 1923.*]

An Act further to amend the Indian Ports Act, 1908.

WHEREAS it is expedient further to amend the Indian Ports Act, 1908, It is hereby enacted as follows XV of 1908

Short title

1 This Act may be called the Indian Ports (Amendment) Act, 1923

Amendment of section 6, Act XV of 1908

2. In sub section (*1*) of section 6 of the Indian Ports Act, 1908 XV of 1908 (hereinafter referred to as the said Act), after clause (*e*) the following clause shall be inserted, namely —

" (*ee*) for regulating the manner in which oil or water mixed with oil shall be discharged in any such port and for the disposal of the same,"

Amendment of section 21, Act XV of 1908

3. In section 21 of the said Act—

(*a*) to sub section (*1*) after the word "landfloods" the following shall be added, namely —

"and no oil or water mixed with oil shall be discharged in or into any such port, to which any rules made under clause

1 For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p 266

(*ee*) of sub-section (*1*) of section 6 apply, otherwise than in accordance with such rules";

(*b*) in sub section (*2*)—

(i) after the words "such other thing" the words "or so discharges any oil or water mixed with oil" shall be inserted and

(ii) for the words "or thrown" the words "thrown or discharged" shall be substituted, and

(*c*) in sub section (*3*)—

(i) after the words "such other thing" the words "or from so discharging any oil or water mixed with oil" shall be inserted, and

(ii) for the words "or throw it" the words "throw or discharge the same" shall be substituted, and

(*d*) in sub section (*4*), after the words "thrown into" the words "or the oil or water mixed with oil is discharged in or into" shall be inserted

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ACT No XL OF 1923 [1]

[*5th August 1923*]

An Act further to amend the Indian Electricity Act, 1910

WHEREAS it is expedient further to amend the Indian Electricity Act, 1910 It is hereby enacted as follows — IX of 1910

1. This Act may be called the Indian Electricity (Amendment) Act 1923 Short title.

2. After section 29 of the Indian Electricity Act 1910 the following section shall be inserted namely — IX of 1910 Insertion of new section 29A in Act IX of 1910

"29A The provisions of sub sections (3) and (4) of section 18 and of the *Explanation* thereto shall apply in the case of any aerial line placed by any railway administration as defined in section 3 of the Indian Railways Act 1890 as if references therein to the licensee were references to the railway administration" IX of 1890 Application of section 18 to aerial lines maintained by railways

1 For Statement of Objects and Reasons see Gazette of India 1923 Pt V p 265

ACT No. XLI of 1923.[1]

[5th August, 1923.]

An Act to amend the Charitable and Religious Trusts Act, 1920.

WHEREAS it is expedient to amend the Charitable and Religious Trusts Act, 1920; It is hereby enacted as follows:— XIV of 1920.

Short title. 1. This Act may be called the Charitable and Religious Trusts (Amendment) Act, 1923.

Amendment of section 2, Act XIV of 1920. 2. In section 2 of the Charitable and Religious Trusts Act, 1920, XIV of 1920. after the words "the Court of the District Judge", the words "or any other Court empowered in that behalf by the Local Government" shall be inserted.

ACT No. XLII of 1923.[2]

[5th August, 1923.]

An Act to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties.

WHEREAS it is expedient to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties; It is hereby enacted as follows:—

Preliminary.

Short title, extent and commencement. 1. (1) This Act may be called the Musalman Wakf Act, 1923;

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas;

(3) This section shall come into force at once; and

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[1] For Statement of Objects and Reasons, see Gazette of India, 1923, Pt. V, p. [illegible]

[2] For Statement of Objects and Reasons, see Gazette of India, 1923, Pt. V, p. [illegible]; and for Report of Select Committee, see ibid., 1923, Pt. V, p. [illegible]

(4) The Local Government may, by notification in the local official Gazette, direct[1] that the remaining provisions of this Act, or any of them which it may specify, shall come into force in the Province, or any specified part thereof, on such date as it may appoint in this behalf

2 In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "benefit" does not include any benefit which a mutwalli is entitled to claim solely by reason of his being such mutwalli,

(b) "Court" means the Court of the District Judge or, within the limits of the ordinary original civil jurisdiction of a High Court, such Court, subordinate to the High Court, as the Local Government may, by notification in the local official Gazette, designate in this behalf,

(c) "mutwalli" means any person appointed either verbally or under any deed or instrument by which a wakf has been created or by a Court of competent jurisdiction to be the *mutwalli of a wakf, and includes a naib mutwalli or other* person appointed by a mutwalli to perform the duties of the mutwalli, and save as otherwise provided in this Act, any person who is for the time being administering any wakf property,

(d) "prescribed" means prescribed by rules made under this Act, and

(e) "wakf" means the permanent dedication by a person professing the Mussalman faith of any property for any purpose recognised by the Mussalman law as religious, pious or charitable but does not include any wakf, such as is

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[1] Ss 2 to 5 and 7 to 13 were brought into force in the Punjab with effect from the 14th May 1924 *see* Punjab Gazette 1924 Pt I p 418

Ss 2 to 13 were brought into force in certain districts of Burma from the 1st August 1924 *see* Burma Gazette 1924 Pt I p 600

Ss 2 to 13 were brought into force in the Presidency of Bombay including Sind from the 1st June 1925 *see* Bombay Government Gazette 1925 Pt I p 1414

All provisions of the Act were brought into force in Bihar and Orissa from the 3rd September 1925 *see* B & O Gazette 1925 Pt II p 1192

Ss 2 to 13 were brought into force in the Presidency of Bengal with certain modifications from the 1st June 1927 *see* Notification No 230 T Mis dated the 5th May, 1927, Calcutta Gazette Pt I p 1008

Ss 2 to 13 were brought into force in Ajmer Merwara from 1st February 1928, *see* notification No 142 C C /27 dated 23rd January 1928 Gazette of India 1928 Pt II A., p 20

Ss 2 to 5 and 7 to 13 were brought into force in the N W F P with effect from 24th February 1928 *see* N W F P Gazette 1928 Pt I A p 183

described in section 3 of the Mussalman Wakf Validating Act, 1913, under which any benefit is for the time being claimable for himself by the person by whom the wakf was created or by any of his family or descendants VI of 1913.

Statements of Particulars

Obligation to furnish particulars relating to wakf

3 (1) Within six months from the commencement of this Act every mutwalli shall furnish to the Court within the local limits of whose jurisdiction the property of the wakf of which he is the mutwalli is situated or to any one of two or more such Courts, a statement containing the following particulars, namely —

(a) a description of the wakf property sufficient for the identification thereof,

(b) the gross annual income from such property,

(c) the gross amount of such income which has been collected during the five years preceding the date on which the statement is furnished, or of the period which has elapsed since the creation of the wakf whichever period is shorter,

(d) the amount of the Government revenue and cesses, and of all rents annually payable in respect of the wakf property;

(e) an estimate of the expenses annually incurred in the realisation of the income of the wakf property, based on such details as are available of any such expenses incurred within the period to which the particulars under clause (c) relate,

(f) the amount set apart under the wakf for—

(i) the salary of the mutwalli and allowances to individuals,

(ii) purely religious purposes,

(iii) charitable purposes,

(iv) any other purposes, and

(g) any other particulars which may be prescribed

(2) Every such statement shall be accompanied by a copy of the deed or instrument creating the wakf or, if no such deed or instrument has been executed or a copy thereof cannot be obtained, shall contain full particulars, as far as they are known to the mutwalli of the origin, nature and objects of the wakf

(3) Where—

(a) a wakf is created after the commencement of this Act, or

(b) in the case of a wakf such as is described in section 3 of the Wakf Validating Act 1913, the person creating the wakf or any member of his family or any of his descendants is at VI of 1913.

the commencement of this Act alive and entitled to claim any benefit thereunder,

the statement referred to in sub section (1) shall be furnished, in the case referred to in clause (a), within six months of the date on which the wakf is created or, if it has been created by a written document, of the date on which such document is executed, or, in the case referred to in clause (b), within six months of the date of the death of the person entitled to such benefit as aforesaid, or of the last survivor of any such persons, as the case may be

Publication of particulars and requisition of further particulars.

4. (1) When any statement has been furnished under section 3, the Court shall cause notice of the furnishing thereof to be affixed in some conspicuous place in the Court-house and to be published in such other manner, if any, as may be prescribed, and thereafter any person may apply to the Court by a petition in writing, accompanied by the prescribed fee, for the issue of an order requiring the mutwalli to furnish further particulars or documents

(2) On such application being made, the Court may, after making such inquiry, if any, as it thinks fit, if it is of opinion that any further particulars or documents are necessary in order that full information may be obtained regarding the origin, nature or objects of the wakf or the condition or management of the wakf property cause to be served on the mutwalli an order requiring him to furnish such particulars or documents within such time as the Court may direct in the order

Statement of Accounts and Audit

Statement of accounts.

5. Within three months after the thirty first day of March next following the date on which the statement referred to in section 3 has been furnished, and thereafter within three months of the thirty first day of March in every year, every mutwalli shall prepare and furnish to the Court to which such statement was furnished a full and true statement of accounts in such form and containing such particulars as may be prescribed of all moneys received or expended by him on behalf of the wakf of which he is the mutwalli during the period of twelve months ending on such thirty first day of March or as the case may be, during that portion of the said period during which the provisions of this Act have been applicable to the wakf

Provided that the Court may, if it is satisfied that there is sufficient cause for so doing, extend the time allowed for the furnishing of any statement of accounts under this section

Audit of accounts

6. Every statement of accounts shall, before it is furnished to the Court under section 5, be audited—

(*a*) in the case of a wakf the gross income of which during the year in question, after deduction of the land revenue and cesses, if any, payable to the Government, exceeds two thousand rupees, by a person who is the holder of a certificate granted by the Local Government under section 114 of the Indian Companies Act, 1913 or is a member of any institution or association the members of which have been declared under that section to be entitled to act as auditors of companies throughout British India, or VII of 1913.

(*b*) in the case of any other wakf, by any person authorised in this behalf by general or special order of the said Court

General Provisions

Mutwalli entitled to pay cost of audit, etc., from wakf funds

7. Notwithstanding anything contained in the deed or instrument creating any wakf, every mutwalli may pay from the income of the wakf property any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 3 or section 4 or in respect of the preparation or audit of the annual accounts for the purposes of this Act

Verification

8. Every statement of particulars furnished under section 3 or section 4, and every statement of accounts furnished under section 5, shall be written[1] in the language of the Court to which it is furnished, and shall be verified in the manner provided in the Code of Civil Procedure, 1908, for the signing and verification of pleadings V of 1908.

Inspection and copies

9 Any person shall, with the permission of the Court and on payment of the prescribed fee, at any time at which the Court is open, be entitled to inspect in the prescribed manner, or to obtain a copy of, any statement of particulars or any document furnished to the Court under section 3 or section 4, or any statement of accounts furnished to it under section 5, or any audit report made on an audit under section 6

Penalty

Penalties

10 Any person who is required by or under section 3 or section 4 to furnish a statement of particulars or any document relating to a wakf, or who is required by section 5 to furnish a statement of accounts, shall,

[1] In the application of the Act to B and O the words in urdu or shall be read after the word written see B and O Act I of 1925

if he, without reasonable cause the burden of proving which shall be upon him, fails to furnish such statement or document, as the case may be, in due time, or furnishes a statement which he knows or has reason to believe to be false, misleading or untrue in any material particular, or, in the case of a statement of accounts, furnishes a statement which has not been audited in the manner required by section 6, be punishable with fine which may extend to five hundred rupees, or, in the case of a second or subsequent offence, with fine which may extend to two thousand rupees

Rules

11. (*1*) The Local Government may, after previous publication, by notification in the local official Gazette, make rules to carry into effect the purposes of this Act **Power to make rules.**

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely —

(*a*) the additional particulars to be furnished by mutwallis under clause (*g*) of sub-section (*1*) of section 3,

(*b*) the fees to be charged upon applications made to a Court under sub-section (*1*) of section 4,

(*c*) the form in which the statement of accounts referred to in section 5 shall be furnished, and the particulars which shall be contained therein,

(*d*) the powers which may be exercised by auditors for the purpose of any audit referred to in section 6, and the particulars to be contained in the reports of such auditors,

(*e*) the fees respectively chargeable on account of the allowing of inspections and of the supply of copies under section 9,

(*f*) the safe custody of statements, audit reports and copies of deeds or instruments furnished to Courts under this Act, and

(*g*) any other matter which is to be or may be prescribed

12. Nothing in this Act shall— **Savings.**

(*a*) affect any other enactment for the time being in force in British India providing for the control or supervision of religious or charitable endowments, or

(*b*) apply in the case of any wakf the property of which—

(i) is being administered by the Treasurer of Charitable Endowments, the Administrator General, or the Official Trustee; or

(ii) is being administered either by a receiver appointed by any Court of competent jurisdiction, or under a scheme for the administration of the wakf which has been settled or approved by any Court of competent jurisdiction or by any other authority acting under the provisions of any enactment

Exemption. **13.** The Local Government may, by notification in the local official Gazette, exempt[1] from the operation of this Act or of any specified provision thereof any wakf or wakfs created or administered for the benefit of any specified section of the Mussalman community

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ACT No XLIII OF 1923 [2]

[*1st October, 1923.*]

An Act further to amend the Indian Stamp Act, 1899.

WHEREAS it is expedient further to amend the Indian Stamp Act, 1899, It is hereby enacted as follows — II of 1899.

Short title. **1.** This Act may be called the Indian Stamp (Amendment) Act, 1923

Amendment of Schedule I, Act II of 1899. **2.** In Schedule I to the Indian Stamp Act, 1899,— II of 1899.

(i) In each of the following Articles, namely, No 19, No 36, No 37, and No 52, in the second column, for the words " One anna " the words " Two annas " shall be substituted;

(ii) In Article No 47—

(*a*) in Division B, in the first column, for the words " Fire-Insurance " the words ' Fire-Insurance and other classes of Insurance, not elsewhere included in this Article, covering goods, merchandise, personal effects, crops, and other property against loss or damage;" and

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[1] For the exemption of wakfs created for the Dawoodi Borah section in the Bombay Presidency for a period of 3 years, *see* Bombay Government Gazette, 1925, Pt. I, p 1414.

[2] For Statement of Objects and Reasons *see* Gazette of India, 1923, Pt V, p 64; for Report of Select Committee, *see ibid*, 1923, Pt V, p 249

(*b*) in Division E, in the first column, for the words "of sea-insurance or a policy of fire insurance" the words "of the nature specified in Division A or Division B of this article"

shall be substituted,

(iii) For Article No 49 the following shall be substituted, namely —

"Promissory note [as defined by section 2 (*22*)]—

(*a*) when payable on demand—	
(i) when the amount or value does not exceed Rs 250,	One anna
(ii) when the amount or value exceeds Rs 250 but does not exceed Rs 1 000,	Two annas
(iii) in any other case	Four annas
(*b*) when payable otherwise than on demand	The same duty as a Bill of Exchange (No 13) for the same amount payable otherwise than on demand"

PART II

ACTS MADE BY THE GOVERNOR GENERAL UNDER THE PROVISIONS OF SECTION 67B OF THE GOVERNMENT OF INDIA ACT

THE INDIAN STATES (PROTECTION AGAINST DISAFFECTION) ACT 1922

[12th March 1923]

An Act to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt, or to excite disaffection against, Princes or Chiefs of States in India or the Government or Administrations established in such States

WHEREAS it is expedient to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt or to excite disaffection against Princes or Chiefs of States in India or the Governments or Administrations established in such States It is hereby enacted as follows —

Short title and extent 1 (1) This Act may be called the Indian States (Protection against Disaffection) Act 1922

(2) It extends to the whole of British India including British Baluchistan and the Sonthal Parganas

Definitions 2 In this Act unless there is anything repugnant in the subject or context —

(a) book and newspaper have the meanings respectively assigned to them by the Press and Registration of Books Act 1867 XXV of 1867

(b) disaffection includes disloyalty and all feelings of enmity and

(c) document includes any painting drawing photograph or other visible representation

Penalty 3 (1) Whoever edits prints or publishes or is the author of any book newspaper or other document which brings or is intended to bring into hatred or contempt or excites or is intended to excite disaffection

towards, any Prince or Chief of a State in India or the Government or Administration established in any such State, shall be punishable with imprisonment which may extend to five years, or with fine, or with both

(2) No person shall be deemed to commit an offence under this section in respect of any book, newspaper or other document which, without exciting or being intended to excite hatred, contempt or disaffection, contains comments expressing disapprobation of the measures of any such Prince, Chief, Government or Administration as aforesaid with a view to obtain their alteration by lawful means, or disapprobation of the administrative or other action of any such Prince, Chief, Government or Administration

Power to forfeit certain publications or to detain them in course of transmission through post

4. The provisions of sections 99A to 99G of the Code of Criminal Procedure, 1898, and of sections 27B to 27D of the Indian Post Office Act, 1898, shall apply in the case of any book, newspaper or other document containing matter in respect of which any person is punishable under section 3 in like manner as they apply in the case of a book, newspaper or document containing seditious matter within the meaning of those sections

Courts by which and conditions subject to which offence may be tried

5. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall proceed to the trial of any offence under section 3, and no Court shall proceed to the trial of any such offence except on complaint made by or under authority from, the Governor General in Council

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THE INDIAN FINANCE ACT, 1923 [1]

[*29th March, 1923*]

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the duty leviable on certain articles under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the duty

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p 120

leviable on certain articles under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax, It is hereby enacted as follows — VIII of 1894 VI of 1898 X of 1923

Short title extent and duration

1. (*1*) This Act may be called the Indian Finance Act, 1923

(*2*) It extends to the whole of British India, including the Sonthal Parganas and British Baluchistan

[1]* * * * * *

2 [*Fixation of salt duty*] *Repealed by s 2 of the Indian Finance Act, 1924*

Amendment of Act VIII of 1894

3. (*1*) In Schedule II to the Indian Tariff Act, 1894, the amendments specified in the First Schedule to this Act shall be made VIII of 1894

(*2*) In Schedule III to the same Act, in item No 3, for the entry in the fourth column the entry "5 per cent" shall be substituted

(*3*) The amendments made in the Indian Tariff Act, 1894, by this section shall have effect from the first day of March, 1923 VIII of 1894

4. [*Postal rates*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)*

5. [*Amendment of Act X of 1922*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)*

6. [*Income tax and super tax*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)*

SCHEDULE I

Amendments to be made in Schedule II to the Indian Tariff Act, 1894

[*See section 3 (1)*]

1 In item No 4, after the words "all sorts" the words "except ochres and other pigment ores" shall be added

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[1] Sub section (*3*) was repealed by s 2 and Sch of the Repealing Act 1927 (12 of 1927)

2. For item No. 14 the following shall be substituted, namely :—

"CINCHONA BARK and the alkaloids extracted therefrom including QUININE"

3 In item No 29, for the words "spirit, which has been rendered effectually and permanently unfit for human consumption" the words "Denatured Spirit" shall be substituted

4 In item No 30, to the entry in the fourth column the words "or 15 per cent *ad valorem*, whichever is higher" shall be added.

5 In item No 31, the following shall be added to each of the entries in the fourth column, namely .—

"or 15 per cent *ad valorem*, whichever is higher."

6 In item No 34, in the second column, the words "and saccharine produce of all sorts" shall be omitted.

7 After item No 34 the following heading and items shall be inserted, namely —

"	SACCHARINE		
34A	SACCHARINE (except in tablets)	Pound .	20 0
34B	SACCHARINE TABLETS .	*Ad valorem*	25 per cent or Rs 20 per pound of saccharine contents, whichever is higher.'

8 In item No 43, for the entry in the fourth column, the following shall be substituted, namely —"24-0 or 15 per cent. *ad valorem*, whichever is higher"

9 For item No 51 the following items shall be substituted, namely —

"51 MACHINERY, namely such of the following articles as are not specified in any of the following numbers, namely, Nos 15, 16, 53, 54, 55, 87, 90-A, 96, 103, 111, and 127 —

(1) prime movers, boilers, locomotive engines and tenders for the same, portable engines (including power driven road rollers, fire engines and tractors), and other machines in which the prime mover is not separable from the operative parts;

(2) machines and sets of machines to be worked by electric, steam, water, fire or other power, not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts,

(3) apparatus and appliances, not to be operated by manual or animal labour, which are designed for use in an industrial system as parts indispensable for its operation and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose;

(4) control gear, self acting or otherwise, and transmission gear designed for use with any machinery above specified, including belting of all materials and driving chains but not driving ropes;

(5) bare hard-drawn electrolytic copper wires and cables and other electrical wires and cables, insulated or not, and poles, troughs, conduits and insulators designed as parts of a transmission system, and the fittings thereof

Note.—The term "industrial system" used in sub-clause (3) means an installation designed to be employed directly in the performance of any process or series of processes necessary for the manufacture, production or extraction of any commodity

51A. COMPONENT PARTS OF MACHINERY as defined in No 51, namely, such parts only as are essential for the working of the machine or apparatus and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose

Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the machine to which they belong if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable"

10 Item No 52 and the heading thereto shall be omitted

11 Item No 56 shall be omitted

12 For item No 61 the following shall be substituted namely —

"61 IRON OR STEEL, anchors and cables

" " beams, joists, pillars, girders and other structural shapes, whether fabricated or not, screw piles, bridge work and other descriptions of iron or steel not ordinarily used for other than building purposes, including ridging, guttering, flashing and continuous roofing, also including expanded metal and other descriptions of iron or steel designed for use in the reinforcing of concrete, but not including builders' hardware, that is to say, grates, stoves, ventilators, door and window fittings and the like (See No 90)

" " bolts and nuts including hook bolts and nuts for roofing

" " hoops and strips

" " nails, rivets and washers, all sorts

" " pipes and tubes and fittings therefor, that is to say, bends, bolts, elbows, tees, sockets, flanges, plugs, valves, cocks and the like

" " rails, chairs, sleepers, bearing and fish plates, spikes (commonly known as dog spikes), switches and crossings other than those described in No 63, also lever boxes, clips and tie bars

" " sheets and plates, all sorts, whether fabricated or not, including discs and circles

" " wire, including fencing wire, piano-wire and wire rope, but excluding wire netting (See No 97)"

13 In item No 63, the words "engines, tenders" shall be omitted, and for the second proviso, the following proviso shall be substituted, namely —

"Provided also that nothing shall be deemed to be dutiable hereunder which is dutiable under No 51 or No 51A"

14 After item No 63 the following item shall be inserted, namely —

"63A. COMPONENT PARTS OF RAILWAY MATERIALS as defined in No 63, namely, such parts only as are essential for the working of railways and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose

Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the railway material to which they belong if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable"

15. To item No 64 the following proviso shall be added, namely —

"Provided that articles of machinery as defined in No 51 or No 51A, shall, when separately imported, not be deemed to be included hereunder"

16 For item No 87 and the heading thereto the following shall be substituted, namely :—

"CONVEYANCES

87 CONVEYANCES, including tramcars, motor omnibuses motor lorries, motor vans, passenger lifts, carriages, carts, jinrikshas, bath chairs, perambulators, trucks, wheel barrows, bicycles, tricycles and all other sorts of conveyances not otherwise specified, and component parts and accessories thereof, except such parts and accessories of the motor vehicles above mentioned as are also adapted for use as parts or accessories of motor cars motor cycles or motor scooters (*See* No 127)"

17 After item No 90 the following item shall be inserted, namely :—

"90A ELECTRICAL CONTROL GEAR AND TRANSMISSION GEAR namely switches, fuses and current-breaking devices of all sorts and descriptions, designed for use in circuits of less than ten *amperes* and at a pressure not exceeding 250 volts, and regulators for use with motors designed to consume less than 187 watts bare or insulated copper wires and cables any one core of which has a sectional area of less than one eightieth part of a square inch and wires and cables of other metals of not more than equivalent conductivity and line insulators including also cleats connectors leading in tubes and the like of types and sizes such as are ordinarily used in connection with the transmission of power for other than industrial purposes, and the fittings thereof"

18 To item No 96 the following shall be added namely —

"and any machines (except such as are designed to be used exclusively in industrial processes) which require for their operation less than one quarter of one brake horse power"

19 In item No 103, after the word "tiles" the words "firebricks not being component parts of any article included in No 51 or No 63" shall be inserted and after the word "specified" the words "including bitumen and other insulating materials" shall be added

20 In item No 127, the words "bicycles and tricycles" and the words "or of bicycles or tricycles" shall be omitted

21 To item No 130 the words "and parts thereof" shall be added

22 In item No 139, the word "and shall be inserted after the word "cycles" and the words bicycles and tricycles" shall be omitted

[*SCHEDULE II*] *Repealed by s 2 and Sch of the Repealing Act 1927 (12 of 1927)*

[*SCHEDULE III*] *Repealed by s 2 and Sch of the Repealing Act 1927 (12 of 1927)*

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